LANDS DIRECTORATE

DIRECTION GENERALE DES TERRES

# THE LAND PLANNING FRAMEWORK OF CANADA : AN OVERVIEW

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THE LAND PLANNING FRAMEWORK OF CANADA: AN OVERVIEW
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## NOTICE REGARDING BRITISH COLUMBIA

Since May 1983 there have been significant changes in the land planning administrative structure in British Columbia. The data in this report were gathered prior to May 1983. The authors would like to take this opportunity to inform the readers of these changes and to correct some minor errors in the text.

In effect, it should be noted that the Regional Resource Management Committees (RRMC) and the Technical Planning Committees (TPC) are no longer in existence since the passing of Bill 9 the Municipal Amendment Act in 1983, which followed Bill 9 (1982) the Land Use Act that was never passed by the legislature. The Municipal Amendment Act addressed intermunicipal planning issues as well as development of the approval process and it abolished official regional plans along with the authority of regional districts to prepare them. The Municipal Amendment Act however does not affect the authority of the municipalities to prepare official community plans for land within their boundaries or regional districts to prepare official settlement plans for designated portions of their unincorporated area or settled portions of the regional district outside municipal boundaries.

Other land use concerns that should be included in the first section of the discussion on British Columbia are the conversion of productive forest land in the province's interior to agriculture, the preservation of the province's shorelands and estuaries and the need for additional parkland and recreation areas to serve the province's growing population and tourism industry.

ERRATA

p. 37 2nd para. - "development-variance permit" should read "development permit".

p. 39 2nd para. 2nd sentence - "lands designated as Agricultural Land" should read "agricultural land".

p. 39 2nd para. - the last sentence should be deleted.

p. 39 3rd para. 3rd sentence - delete "and official community plans".

p. 40 Figure 3, change "a vote of 2/3" to "majority vote".

p. 42 2nd para. - "B.C. Development Commission" should read "B.C. Development Corporation".

p. 42 3rd para. - "Minister" should read "Ministry" in the last sentence.

p. 42 4th para. first sentence - replace "and resources" by "use" as well as "regional districts" to "municipalities" and delete reference to "regional plans".

The Lands Directorate wishes to expr[illegible]s appreciation to British Columbia's Ministry of Lands, Parks and Housing [illegible]r contribution to the British Columbia chapter. They may be conta[illegible]he following address: Lands Division, Ministry of Lands, Parks and [illegible]g, Parliament Buildings, Victoria, British Columbia, V8V 1X4.

# LAND PLANNING FRAMEWORK OF CANADA: AN OVERVIEW

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# PREFACE

The Land Planning Analysis Division of the Lands Directorate has recently initiated a new series of studies on land planning techniques in Canada, of which this is the first. These grow from the province-by-province reports done during the 1970s on land use legislation and programs (the first ten and numbers 14 and 15 in the Land Use in Canada Series). Having done these, it was felt that further value would be added in the future by producing nation-wide reports on how land planning is addressing specific land use problems or issues. Such national overview have the advantage of providing, under one cover, the state of current Canadian practice in a form which is useful not only in informing practitioners, but in informing the interested public of who is doing what about a given subject.

Because land planning is primarily carried out at the provincial level, these reports depend heavily on provincial interest and cooperation. This cooperation has invariably been forthcoming.

This first study provides a national overview of planning as it is structured across Canada in the provinces. It begins, not with the planning legislation, but with the land use concerns of each province, from which one can better understand the legislation in place. A national synthesis links together these concerns and the responses to them, and seeks to derive some pattern. These patterns that exist are somewhat surprising, given the variety of situations, problems, issues and approaches from coast to coast. It should perhaps be noted here that this study does not deal with northern, or territorial planning, as it is quite different from provincial level planning in its form, substance, territorial influence, sources of authority and powers. Northern planning is also in a state of flux with new initiatives being pursued by the Department of Indian and Northern Affairs, the territorial governments, and native and industry groups. Once the planning process in the north is well established, a separate study is anticipated. Future subjects to be covered include forest development legislation, hazard land planning, remote area planning, heritage land planning to name a few.

## ABSTRACT

Land-use concerns often give rise to changes in the legislation governing land planning in Canada, and to guard against the effects of development on land occupancy and use, several provinces have recently amended their land-planning acts. Some provinces have repealed laws and replaced them with totally new ones, while others have introduced additional legislation specifically concerned with certain types of land use. Among other changes now taking place in the land-planning framework, environmental considerations are now more often being integrated within the land-planning framework and citizen participation is much more evident than it was ten years ago. While provincial governments have delegated some statutory powers and rights to local governments in planning matters, the provinces have also introduced many complex controls specific to some types of land use.

The purpose of this study is to describe the land-planning process for privately-owned land in each province across Canada. In effect, preparation of various types of plans, their adoption, approval and amendments is examined; these plans deal mostly with municipal planning and other special plans usually prepared by the province. Other planning mechanisms such as zoning techniques and related processes, as well as subdivision, building, development permits, maintenance and occupancy standards have been identified and discussed where appropriate. Various planning approaches as well as delegation of authority within the planning process are two topics discussed.

## ACKNOWLEDGEMENTS

We wish to extend our thanks to provincial governments' representatives involved in interviews. Their contribution and response in the revision and correction of the text dealing with their province, has been invaluable. Without their suggestions and assistance, this study could not have been produced.

Diane Schlitter has provided typing services. Her patience expressed during the production of the present document, from the first draft to the final version has been greatly appreciated. We also extend our thanks to Maret Liivamae for her good work in editing the English text.

We are indebted to the Drafting Services of the Environmental Conservation Services for the preparation of maps and certain figures needed for the document. Special thanks are also extended to Marie-Andrée Slevan for her professional work when drafting figures accompanying the text.

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# INTRODUCTION

When the first communities were established in Canada factors such as pedology, climate, topography, and geographical location influenced the way in which lands were settled. Crown lands were ceded through force of circumstance and became private lands.

Jurisdiction over these private lands is vested in the Canadian provinces by virtue of article 92 of the Constitution Act (Formerly the British North America Act 1867), which states clearly that:

> In each Province, the legislature may exclusively make laws in relation to Matters coming within the Classes of Subjects hereinafter enumerated ...
>
> 13. Property and Civil Rights in the Province.[1]

The Constitution Act transfers to the provinces the power to manage and administer territorial domain. The provinces, in turn, transfer this authority to local administrations.

Although municipal lands are excluded from the Government of Canada's jurisdiction by provincial law, municipalities are subject to provincial laws, regulations, and development policies that allow them to exercise administrative authority in land planning. Viewed from this perspective, land planning is an administrative process aimed at coordinating the functions of governments and rationally organizing and regulating the use, the development of land by private individuals to ensure a reasonable level of socio-economic and environmental benefits.

Although land planning is considered by some as a rational process (Greenspan and Vaughan, 1972), manager, planners, and politicians agree that land planning is essentially a political process because it encompasses many diverse interests (Makush, 1983). In this context land planning is deciding how certain benefits will be distributed among various interests.

The authority of local administrations in planning matters is delegated to them by provincial statute, usually by a land-planning act. Local administrations are also empowered to adopt

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[1] Ollivier, Maurice. 1962. British North America Act and Selected Statutes: 1867 to 1962. House of Commons, Queen's Printer, p. 87.

municipal by-laws dealing with land planning. On the one hand, local administrations try to acquire greater autonomy, while provincial governments, on the other hand, try to retain overall control in order to ensure uniformity of services within the province.

This study attempts to assemble the information required to gain an understanding of how the authority for land planning is shared throughout Canada. Few up-to-date studies presently exist on this subject and those that do deal chiefly with the legal instruments used for land planning. Current studies include Rogers (1973), Weisman (1977), Robinson (1977) the C.I.P. (Canadian Institute of Planners) Task Force on Planning Acts (1980), and a recent study by Hamilton (1981). Without departing completely from the approach taken in these studies, this paper will focus more specifically on planning mechanisms and structures and on the responsibilities and powers of local governments in directly influencing private land planning and use.

Structure of Report

Provincial concerns respecting land use planning are important since they affect the process (decisional mechanism) and structure (organizational mechanism) of land planning in every province. Part 1 summarizes selected provincial concerns and divides them into two categories: those concerning land use and those relating to the provincial planning framework. The manner in which some province responds to specific problems is discussed and trends are identified whenever possible. The various solutions formulated by these provinces to address particular concerns will also be described, since these solutions are likely to be useful to other provinces or local administrations faced with similar problems. Finally, the respective authorities of local administrations and provincial governments are summarized so that the administrative structure and responsibilities of the various participants can be better discerned.

Information specific to each province is presented in Part 2. The structure of the planning system in each province is detailed in order to highlight respective land-planning concerns and frameworks (the planning tools; the laws, mechanisms, and other means designed to protect the environment; the extent of public participation; the process of regional planning), as well as the responsibilities of the provincial and local administrations involved in land planning.

The information contained in this report is current as of May 30 1983, with later changes and modifications not included.

This study was conducted with the assistance of the respective provincial departments listed in Appendix 1. The sections dealing with the planning frameworks in each province were sent to the various departments who provided comments, made corrections, and revised the information. However, the views expressed herein are the sole responsibility of the authors, who would welcome any criticisms, comments, suggestions, updates, and ideas from planners, managers, and individuals alike.

PART 1

## GENERAL OBSERVATIONS DERIVED FROM THE STUDY

All Canadian provinces have at some time or other experienced problems regarding land management and planning.* These concerns arise, for example, in connection with land-use conflicts or the administration of land planning. The relative importance of conflicts has prompted some provinces to promulgate new laws or planning regulations, or to modify existing legislation.

### 1.1 Concerns Over Land Use

#### 1.1.1 Protection of Agricultural Land

As they develop, urban centres place demands on surrounding lands which, in turn, provoke land-use conflicts. These conflicts often result in the loss of prime agricultural land located on, or near, the urban fringe. Several provinces have introduced specific legislation as part of a well-established legal framework designed to protect agricultural resources (see Table 1).

The provinces which have adopted such legislation are British Columbia, Québec, and Newfoundland. These laws are effective in large part because they are linked with the municipal planning process and their provisions, mandatory at the provincial level, must be respected by all.

British Columbia was the first province to have introduced specific legislation to protect agricultural land. The province regulates agricultural zoning through the Agricultural Land Commission Act. The land with best capability for agriculture is first identified (CLI class 1-4), and restrictions concerning land planning and development are then applied. Farmers situated in the agricultural land reserves are thus assured that their investments will be protected and the opportunity will remain for expanding and modernizing their operations in

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* The list of concerns which follows is by no means exhaustive and corresponds to the perceptions of particular interest groups, provincial officials, and spokesmen at the time when research was being conducted. The legislation, policies and guidelines that respond to these concerns, may as well, not be all inclusive of what exist at the provincial level.

TABLE 1

LOSS OF AGRICULTURAL LAND

| Province | Act, Regulation | Type of Control | Those Affected | Control Mechanisms |
|---|---|---|---|---|
| Alberta | Planning Act RSA 1980 c. P-9 | Zoning and subdivision | Land owner, Municipalities | Criteria and standards for development/ re-development |
| British Columbia | Agricultural Land Commission Act | Agricultural zoning by the province | Land owner, Municipalities | Municipalities must designate agricultural land in their development and community plans. |
| Manitoba | Planning Act SM 1975 c. 29 | Development plan | Municipalities | Plan must contain proposals for management as well as for preservation of agricultural land and related activities |
| Newfoundland | Development Areas (Land) Act | Agricultural zoning by the province | Land owner, Municipalities | Agricultural reserves are identified in municipal zoning plan in the Avalon Peninsula. |
| Nova Scotia | Planning Act SNS 1969 c. 16 | Development plan | Land owner, Municipalities | Urban expansion is limited, and development on CLI land classes 2 and 3 is not permitted. |
| Ontario | Foodland Guidelines | Rural zoning | Municipalities | Usable zones may be designated by municipalities/regions. Checks are made on basis of municipal plan. |
| Québec | An Act to Preserve Agricultural Land | Agricultural zoning by the province | Land owner, Municipalities, Municipalities | Local municipalities and MRC must designate agricultural land in their plans. |

order to achieve greater productivity (Manning 1983). It is mandatory that agricultural land be officially designated in settlement and community plans.

Québec, with it Agricultural Land Protection Act, has followed the example of British Columbia. Lands designated as in the Canada land Inventory (CLI) classes 1 to 4 are protected by the legislative provisions contained in the Act. Land is designated under the provisions of the Planning and Development Act.

According to the Development Areas (Land) Act presently in effect in Newfoundland, agricultural land of CLI clases 3 and 4 can be designated as agricultural land reserves and must be identified in municipal zoning plans.

Other variations of the practice of agricultural zoning are to be found in Nova Scotia and Ontario under their rural zoning provisions. Agricultural land in Nova Scotia is protected through a development plan which shows the limits of urban expansion and restricts the use of CLI classes 2 and 3 lands to agriculture (Manning, 1983). Ontario, on the other hand, has not adopted strict agricultural zoning laws, but adheres to the Foodland Guidelines (1978) develped jointly by the Ministry of Agriculture and Food and the Land Use Committee. When followed, these guidelines control development areas and agricultural land use, and municipalities are encouraged to take the guidelines into account when developing plans. Furthermore, the provincial government and private land-owners can verify through the Ontario Municipal Board, that local governments adhere to the guidelines during the municipal plan review process.

Protection of agricultural lands in Ontario will be made possible in the municipal planning process under the new legislation known as An Act Respecting the New Planning Act. The interests of the province in municipal land planning are for the first time likely to be enunciated in this new act. Once the provincial statement regarding the protection of agricultural lands is issued, municipalities will be required to consider them when preparing their official plans.

Manitoba and Alberta have provincial policies and guidelines on land use. In Manitoba, provincial policies on land use are taken into account when preparing municipal or district development plans. Alberta has adopted a series of guidelines which are intended to provide a more coherent orientation to the development and planning of regional districts. These guidelines serve as a frame-of-reference for articulating specific subdivision regulations (viz: Subdivision Regulations 132/78) which establish the criteria and standards for development and re-development in the province. The guidelines are also used in evaluating regional plans and verifying that they conform to the intentions of the province, a necessary condition in obtaining approval for regional plans.

A more comprehensive and detailed discussion on the various methods to protect agricultural land resources in Canada and in the United States has been prepared by Furuseth and Pierce (1982). Their inventory identify other planning tools such as differential tax assessment, land banking, waiver of urban infrastructural assessment and other mechanisms designed to protect farmlands.

### 1.1.2 New Commercial Development and Redevelopment

Any new development and its related support infrastructure, whether residential, commercial, or industrial, will likely have some environmental impact. The cost of providing associated services will also affect the financial resources of municipalities. Some provinces have found it necessary to introduce policies for controlling better the effects of some types of planned land use. The construction of a shopping centre, for instance, entails costs which will be borne by the municipalities where they are located, by the bordering regions, and by the existing infrastructure but are economically beneficial to the host municipality. Suburban shopping centres contribute the problem of downtown deterioration (Ircha, 1982). Some provinces have adopted special regulations to alleviate the problems caused by the construction of shopping centres. Prince Edward Island, Nova Scotia, New Brunswick, British Columbia, Ontario, and Manitoba, for example, have adopted public-use policies for resolving these conflicts (see Table 2).

In 1979, the government of P.E.I. placed a moratorium on the construction of shopping centres following disputes between rural and urban municipal councils. A 1980 proposal recommended regulating the construction of shopping centres through the Planning Act.

Nova Scotia has adopted special legislation in An Act to Regulate the Development of Shopping Centres. The construction of shopping centres on the urban fringe can also be controlled through such programs as the Mainstreet Program which is designed to improve the downtown business district. Under its' Mainstreet Program, businessmen in the designated district levy a special tax for financing improvements to the physical surroundings so as to make them more attractive and hence promote revitalization of the downtown area.

The Province of New Brunswick has also passed a Business Improvement Act. While there is no formal program for revitalizing downtown areas, the government participates on a one-to-one basis with local municipalities wishing to engage in such a program.

Ministerial zoning orders were enforced in Ontario from 1972 to 1976. This type of order authorizes the Minister of Municipal Affairs and Housing to restrict construction of shopping centres on the outskirts of rural districts adjacent to urban centres. Although these orders still exist, they are no longer used for this purpose. Instead, the provincial government places greater emphasis on the downtown revitalization program aimed at improving existing land use.

TABLE 2

NEW COMMERCIAL DEVELOPMENT AND REDEVELOPMENT

| Province | Act, Regulation | Type of Control | Those Affected | Control Mechanisms |
|---|---|---|---|---|
| New Brunswick | Business Improvement Areas Act SNB 1981 B-10.1 | Designation of improvement areas | Merchants situated in designated zone | Improvement area is designated by Minister of Municipal Affairs. This designation aims at improving aesthetic appearance and stimulating economic health of area. |
| | Community Planning Act RSNB 1973 c. M-22. | Land-Use regulations | Developers | Shopping centre maximum surface area cannot exceed 18,580 $m^2$ without Cabinet approval. |
| Nova Scotia | Shopping Centre Development Act SNS 1978-79 c. 74 | Construction regulations | Individuals requesting permits for construction of shopping centres | Construction permit for shopping centre is obligatory. Issued by Provincial Municipal Board. |
| Ontario | Municipality Act RSO 1980 c. 302 | Local improvement areas | Businessmen, Merchants | Improvement area is established by municipal by-law. Management Board is responsible for structural and aesthetic characteristics of buildings comprising shopping centre. |
| Prince Edward Island | Planning Act RSPEI 1976 c. P-6 | Construction regulations | Individuals requesting permits for construction of shopping centres | No shopping centre development of area greater than 2,000 $m^2$ is permitted outside limits of municipality. |

In the Province of Manitoba, Plan Winnipeg is a planning framework for the City of Winnipeg and its outskirts. This plan tries to direct urban growth through the Urban Limit Line principle as well as the neighbourhood revitalization program.

### 1.1.3 Rural Real Estate and Non-Residents

The acquisition of land by foreigners or non-residents has been a concern in several provinces. For the speculator, real estate can afford a secure investment. Non-resident land acquisition affects land use, the use of agricultural and environmental resources, and the traditional structures of rural and farming communities (Mage and Lapping, 1982).

Prince Edward Island exerts the most stringent control over non-resident real-estate holdings through the Real Property Tax Act. Under this Act, the provincial government can restrict land purchases by foreigners and non-residents to 4 ha (10 acres) of surface area, or 100 metres (330 feet) of waterfront, unless prior authorization is accorded by the Lieutenant Governor-in-Council (Maritime Resource Management Service, 1978 and Kienholz, 1980).

In Quebec, the problem associated with land ownership was quickly solved by introducing controls on land use rather than by direct regulation. Agricultural land is protected from speculation for non-farm use by the Act to Preserve Agricultural lands. It should also be noted that Québec is currently in the process of drafting legislation which will oblige owners to obtain permits in order to sell their property to non-residents.

Like Quebec, British Columbia is able to protect agricultural land against urban and industrial development through its Agricultural Land Commission Act, which does not, however, restrict the purchase of farmland by non-residents and foreigners.

Provisions designating planning areas and zoning by-laws in Ontario are made under An Act to Revise the Planning Act. These provisions allow local governments to supervise directly land acquisitions.

Manitoba and Saskatchwan have also adopted legislative means for protecting agricultural land. The legislation attempts to keep agricultural land in production and limit the number of hectares that can be purchased or rented by non-residents or foreign residents (Mage and Lapping, 1983). The Manitoba Agricultural Land Protection Act establishes the means necessary to protect agricultural land. In Saskatchewan, the Land Bank Act allows farmers to purchase or rent agricultural land; a Board created under this Act is empowered to purchase agricultural land from retired farmers so that younger farmers can have the opportunity to continue farming (see Table 3).

TABLE 3

RURAL REAL ESTATE AND NON-RESIDENTS

| Province | Act, Regulation | Type of Control | Those Affected | Control Mechanisms |
|---|---|---|---|---|
| British Columbia | Agricultural Land Commission Act RSBC c. 1979 c. 9 | Agricultural Land Reserves | Land owners in Agricultural Land Reserve | Agricultural zoning protects agricultural land from parcelling, but not against purchase by non-residents. |
| Manitoba | Agricultural Land Protection Act S.M. 1977 c. 44 | Purchase and transfer | Foreigners | No further sales to foreigners. |
| Ontario | Planning Act Bill 159 | Planning areas | Land owners | Municipal Planning areas and zoning regulations. |
| Prince Edward Island | Land Development Corporation Act RSPEI 1974 c. L-2 | Purchase and transfer of land with capability for agriculture | Farmers | Allows sale or rental of agricultural lands to farmers. |
| | Real Property Tax Act RSPEI 1979 c. R-4 | Land purchase for any use | Non-residents of province, Foreigners | Limits purchase of land by non-residents. |
| Québec | An Act to Preserve Agricultural Land LRQ 1977 c. P41.1 | Speculation on agricultural land | Land owners, Farmers | Agricultural land is designated in order to maintain its potential for agriculture. |
| Saskatchewan | Land Bank Act SS 1978 L.2 | Parcelling of land | Farmers | Facilitates purchase of agricultural land by young farmers. Maintains continuity of family farms (program is no longer active. |

### 1.1.4 Special Land in Natural and Built Environment

Some types of land use (residential, farming, transportation, sand and gravel excavation) can lead to degradation of the natural environment. Land planning and development can affect flood plains, wetlands, areas rich in fauna and flora, landslide areas, and regions with recreational potential. The built-up environment, which includes historic, heritage, and architectural sites, is equally sensitive to problems created by certain land-planning practices. Recognizing the need to address these problems, provincial governments have sought in varying degrees to protect the features of the natural and built-up environments.

Land-planning provisions that protect the environment are varied and can range from simple policies recommending that municipalities take account of the features of the natural environment, to legal provisions establishing well-defined areas in which development is controlled by provincially-appointed agencies.

Environmental factors are also taken into account when developing municipal plans on a joint and regional basis. Provision concerning "special planning areas" are employed in several provinces to conserve fauna, historic, or agricultural resources, or to regulate planning in regions with potential for economic development (Manitoba, Alberta, Saskatchewan, Newfoundland, Nova Scotia, Prince Edward Island). Other provinces have adopted special laws establishing planning frameworks and mechanisms appropriate to every area where planning proves to be problematic (Ontario, Nova Scotia).

Table 4 comprises a list of environmental protection provisions which apply to municipalities and planning areas.

### 1.1.5 Other Concerns

Other concerns relating to various uses of the environment are to be found within each province. The provinces of Newfoundland, Nova Scotia, and Ontario identified the issues of the planning and managing of drainage basins (sources of drinking water). Although management of drainage basins in these provinces is the responsibility of environment departments, the effectiveness with which they are managed has a direct impact on land planning and management at the municipal level. Similarly, the exploitation of offshore resources and its impact on waterfront development leads to problems in Nova Scotia and Newfoundland.

The provinces are all faced with a diverse number of concerns, and each province has its own ways of reducing environmental effects. Detailed descriptions of the issues are found in the sections dealing with the individual provinces.

## 1.2 Concerns Regarding the Land-Planning Framework

Some concerns regarding the land-planning framework have been identified in the report of the CIP Task Force on Planning Act, (1980). For the most part, provincial concerns have led to tangible changes in land-planning legislation or in the conceptual structure and orientation of the land-planning framework.

This discussion will focus on the following issues: financial ability to realize the objectives identified in local plan; viability of regional planning structures; public participation in the planning process; delegation of authority to local governments; and finally, controls on land use. The manner in which these issues find expression and how they differ from one province to another will also be addressed.

### 1.2.1 Regional Planning

Regional planning in Canada is continually evolving. The concept of regional planning developed in response to land-use concerns that arose from the effects of urban growth on outlying areas and of attendant exchanges. Regional planning encourages development of basic services as well as facilitating road and transport services, therefore giving more opportunities for the region to develop. Regional development imposes a financial burden on municipalities which must absorb and share the costs of development and ancillary utilities (water supply, sewers). Development can also affect such land resources as agricultural and forest lands and land with recreational potential.

Several provinces recognize that development gives rise to problems which affect regional areas, or areas larger than those of local municipalities. These provinces have adopted a regional planning structure, or at least a process, which allows inter-municipal planning to be conducted at the request of the municipalities concerned (see Table 5). Voluntary associations between municipalities are often formed to conduct inter-municipal planning.

Regional planning can, therefore, assume two forms. In the first, planning is undertaken by a regional government and encompasses an area or district determined by the provincial government, as in British Columbia, Ontario, and Alberta. In the second form, land planning for a joint planning region is undertaken by a voluntary association of local administrations (Prince Edward Island, Manitoba, Quebec, Saskatchewan, Newfoundland).

### 1.2.2 Public Participation

In several provinces, planning responsibility has been accorded to municipal councils. Recognizing that municipal councils are accountable to the public they serve, this provides greater potential for public participation in the land-planning process.

TABLE 4

PROTECTION OF NATURAL AND BUILT ENVIRONMENT

| Province | Act, Regulation | Type of Control | Those Affected | Control Mechanisms |
|---|---|---|---|---|
| Alberta | Planning Act RSA 1980 c. P-9 | Special Planning Area | Residents of special planning area | Provincial Planning Board sets objectives regarding development in areas deemed to have special environmental characteristics. Municipalities must take into account these objectives when preparing zoning by-laws (or make them conform). |
| | Environment Act RSA 1980 c. D-19 | Restricted Development Area Regulations Act (212/78) | Designated Area. | Prevents environmental degradation and protect natural, man-made environment by directing land-use and development in the area so designated. |
| British Columbia | Land Commission Act RSBC c. 1979 c. 9 | Agricultural zoning | Any individual resident on land designated as agricultural | Protection of agricultural land against other uses. Agricultural Land Commission can acquire land having certain aesthetic, historic, or historic, or ecological features. |
| | Environment and Land Use Act RSBC c. 1979 c. 110 | Ministerial order | Development area | E.L.U.C. verifies whether objectives established in municipal plans respect environmental proection criteria. On the recommendation of a Ministerial committee, Cabinet can promulgate regulations aimed at protecting the environment. |
| | Municipal Act RSBC 1979 c. 290 | Zoning | Municipal area and any individual resident thereon | Preservation of the environment must be taken into account by municipal councils. They can impose fines on any proprietor preventing the natural flow of water. |
| | Local Service Act RSBC 1979 c. 247 | (Subdivision Regulation 262/70) | Non-organized territory | Approval for subdivision can be refused if land is subject to flooding, has poor drainage or erodes easily. |

(TABLE 4 cont'd.)

| Province | Act, Regulation | Type of Control | Those Affected | Control Mechanisms |
|---|---|---|---|---|
| Manitoba | Planning Act<br>SM 1975 c. 29 | Development plan | Any resident in the development area.<br>Developers. | Plan must contain proposals for controls in areas where waterfront development poses hazards. |
| | | Zoning | | Provisions to regulate use of flood zones or other dangerous areas. |
| | | Special Planning Areas | | Special planning areas are designated by municipal council. An advisory committee composed of municipal councillors advises the Minister of Municipal Affairs of the proposed plan and its implementation, as well as of the regulations required for the area. |
| | | Special Planning with interim controls | | No development can be undertaken without a permit from the District Board. |

(TABLE 4 cont'd.)

| Province | Act, Regulation | Type of Control | Those Affected | Control Mechanisms |
|---|---|---|---|---|
| New Brunswick | Community Planning Act RSNB 1973 c. H-12 | Municipal plan or declaration of planning perspectives | Any individual resident in development area | |
| | Historic Site Protection Act RSNB 1973 c. H-6 | Designation of conservation areas and protected zones | Any individual in designated area | A permit is required for any construction or development project situation in a designated area. |
| | Health Act RSNB 1973 c. H-2 | Approval of plan | Developers | Any construction involving sewers, main water supply, or waste disposal installations must be approved by the Minister of the Environment. |
| Newfoundland | Urban and Rural Planning Act RSN 1970 c. 387 | Protected Area Plan | Land owners | Prevent linear development along roads and highways. Through this plan, the government can enforce regulations to protect certain areas having particular characteristics. |
| | | Development Control Areas | | The Minister of Municipal Affairs is responsible for designating areas situated outside a municipal area or joint planning region. Special regulations concerning land use or occupancy can be applied to these areas. |

(TABLE 4 cont'd.)

| Province | Act, Regulation | Type of Control | Those Affected | Control Mechanisms |
|---|---|---|---|---|
| Newfoundland (cont'd.) | Environment Act SN 1980 c. 3 | Environmental Impact Plan | Developers | Control of drainage basins to ensure sources of drinking water. Any development project of scope should be accompanied by an assessment of its environmental impacts. |
| | Development Areas (Lands) Act RSN 1970 c. 95 | Designation of specific areas | Land owners | The government issues special controls to protect agricultural land as well as some sites linked with oil-resource development. |
| Nova Scotia | Planning Act SNS 1969 c. 16 | Designation of controlled development zone | Any individual resident in designated zone | Municipal development plan must contain policies concerning conservation areas, wetlands, flood zones, wildlife areas, or areas that are ecologically sensitive. A regional development permit is required for developments situated near marshland, flood zones, etc. |
| | Special Places Protection Act (bill) | | | Regulation of areas designated as of archaeological or historic significance, or with ecological richness. |

(TABLE 4 cont'd.)

| Province | Act, Regulation | Type of Control | Those Affected | Control Mechanisms |
|---|---|---|---|---|
| Ontario | Niagara Escarpment Planning and Development Act RSO 1980 c. 316 | Special designation of area | Residents of designated area | Plan prepared by Niagara Escarpment Commission should contain policies on private and public land planning. The Minister of Treasury and Economics regulates development in the region and issues development permits. |
| | Parkway Belt Planning and Development Act RSO 1980 c. 368 | Designation of green belt | Residents of designated area | This green belt serves to divide and delineate urban and rural regions. |
| | Environmental Protection Act RSO 1980 c. 141 | Analysis criteria used to control pollution and noise level and establish standards for sanitary waste fills and waste treatment plants | Developers and development agencies | Development plans must contain and respect criteria specified in the Act. Development permits are required. |
| | Ontario Planning and Development Act RSO 1980 c. 354 | Development plan | Individuals resident in development area | Plan must contain policies concerning population, land use, land and water management, control of environmental pollution, location and development of public utilities. Regulations are enforced. |
| Prince Edward Island | Planning Act regulation | Designation of conservation areas | Any individual resident in designated area | All development in a designated area is prohibited. |

(TABLE 4 cont'd.)

| Province | Act, Regulation | Type of Control | Those Affected | Control Mechanisms |
|---|---|---|---|---|
| Prince Edward Island (cont'd.) | | Special Planning area | Any individual resident in planning area | Any development requires approval of the Minister. |
| | | Sand and gravel excavation | Any excavator | Any excavation work requires a permit from the Minister. |
| Québec | Planning and Development Act SQ 1979 c. 51 | Zoning | Any individual resident in planning area | Zoning regulation can prevent the building of structures where there is a danger of flooding or other disasters. |
| | Environmental Quality Act RSQ 1977 c. Q-2 | Environmental conservation plan and program | Regional and municipal development areas | Environmental conservation plans and programs are integral to the planning schemes of MRC's, which have the authority for environmental management. |
| | Cultural Property Act RSQ 1977 B-4 | Special Planning area | Anyone within designated area | Planning and development in a area deemed to have historical, heritage values is controlled. |
| Saskatchewan | Planning and Development Act RSS 1978 p-13 | Planning unit development (P.U.D.) | Residents of designated units | The municipality can mark out the P.U.D. districts and the type of development desired. |
| | | Zoning | Residents of development area | Zoning and construction order can prevent development of designated areas and flood plains. |
| | | Special planning area | | A development plan is required for the designated area. The Minister of Urban/Rural Affairs assumes the authority of a municipal council. A Special Area Board may be named responsible for planning. Cabinet formulating the regulations for controlling planning. |

TABLE 5

REGIONAL PLANNING IN CANADA

| PROVINCE | TYPE OF REGIONAL STRUCTURE |
|---|---|
| Alberta | Regional Planning Commission (8) |
| British Columbia | Regional Districts (28) |
| Manitoba | District Planning (15)<br>Plan for Winnipeg Region |
| New Brunswick | Planning Regions (7) |
| Newfoundland | St. John's Urban Region |
| Nova Scotia | Regional Districts (8)<br>Dartmouth Metropolitan Area |
| Ontario | Regional Municipalities (14)<br>T.C.R. (Toronto Centered Region) |
| P.E.I. | Joint Planning Commission |
| Québec | County Regional Municipalities (92)<br>Regional Urban Communities (3) |
| Saskatchewan | District Planning |

Most provinces provide for public hearings before municipal plans are approved (Québec, Ontario, Manitoba, P.E.I.). In other provinces, public meetings are preferred, but are not mandatory (Alberta). Saskatchewan, Nova Scotia, and Prince Edward Island allow the public to present objections to plans before they are adopted, but Newfoundland requires that a public meeting only be held once a plan has been adopted. Consultation while preparing zoning by-laws is also required by the various 'Planning Acts', by way of a public hearing before it is approved in Manitoba (Winnipeg), Quebec and British Columbia. In Ontario, Nova Scotia, Alberta and Saskatchewan, the public may forward objectives before the zoning by-laws are approved. A public consultation process also exists at the regional plan level. Member municipalities of the region in question are able to participate in meetings and comment on the content of the regional plan as well as on overall regional planning policies.

### 1.2.3 Controls on Land Use

In order to implement development plans, some regulatory controls on land development must be established. There are various means for exercising control, though zoning, subdivision, severance policies and buildings regulations are among the most important. The process of reviewing and approving these regulations is an equally important as what they control.

Provincial governments can often exercise direct authority in specially-designated areas. The Ontario Minister of Municipal Affairs and Housing can issue zoning orders when he wishes to intervene directly in land planning affecting Northern Ontario. In British Columbia, the Agricultural Land Commission is authorized to designate agricultural lands by special order.

The types of land-use regulations varies slightly from province to province. Local governments in Ontario can employ such measures as holding by-laws, bonus by-laws, and interim control by-laws, site-plan controls by-laws, in exercising more flexibility in land-use control. In its document Options for Change (1982), Saskatchewan proposes to adopt measures similar to those used in Ontario.

### 1.2.4 Other Trends in Planning

Some trends in land planning have been apparent for some time. There has been a move towards improving local land management by obliging local administrations to prepare plans and identify the funding sources for planned development, this to ensure that plans are economically feasible with the funds of the municipality.

a) Financing Local Development

Several provincial governments now require local authorities to prepare budgets on the capital costs of accomplishing development projects and include these budgets in municipal plans. It was necessary to oblige municipalities and regions to prepare budgets for plans so that ability to absorb the costs associated with development and completion of a proposed project could be demonstrated. This is the case in New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island, Saskatchewan, and British Columbia.

b) Preparation and Review of Plans

Several provinces have changed their approach to the mandatory preparation of municipal plans and the enforcement of this provision. Manitoba (Winnipeg), Québec, and New Brunswick have imposed deadlines for preparing plans. Periodic review of plans also serves as a control which ensures that plans are kept current and improves their quality and the effectiveness of their implementation (Manitoba (Winnipeg as well), Québec, Saskatchewan, Newfoundland and Ontario).

## 1.3 Authority and Responsibility for Land Planning

### 1.3.1 Role of Provincial Governments

Provincial governments have delegated some authorities to local administrations in an effort to improve the quality and effectiveness of provincial land-planing frameworks. The inter-relationships between the various participants in land planning are shown in Table 6.

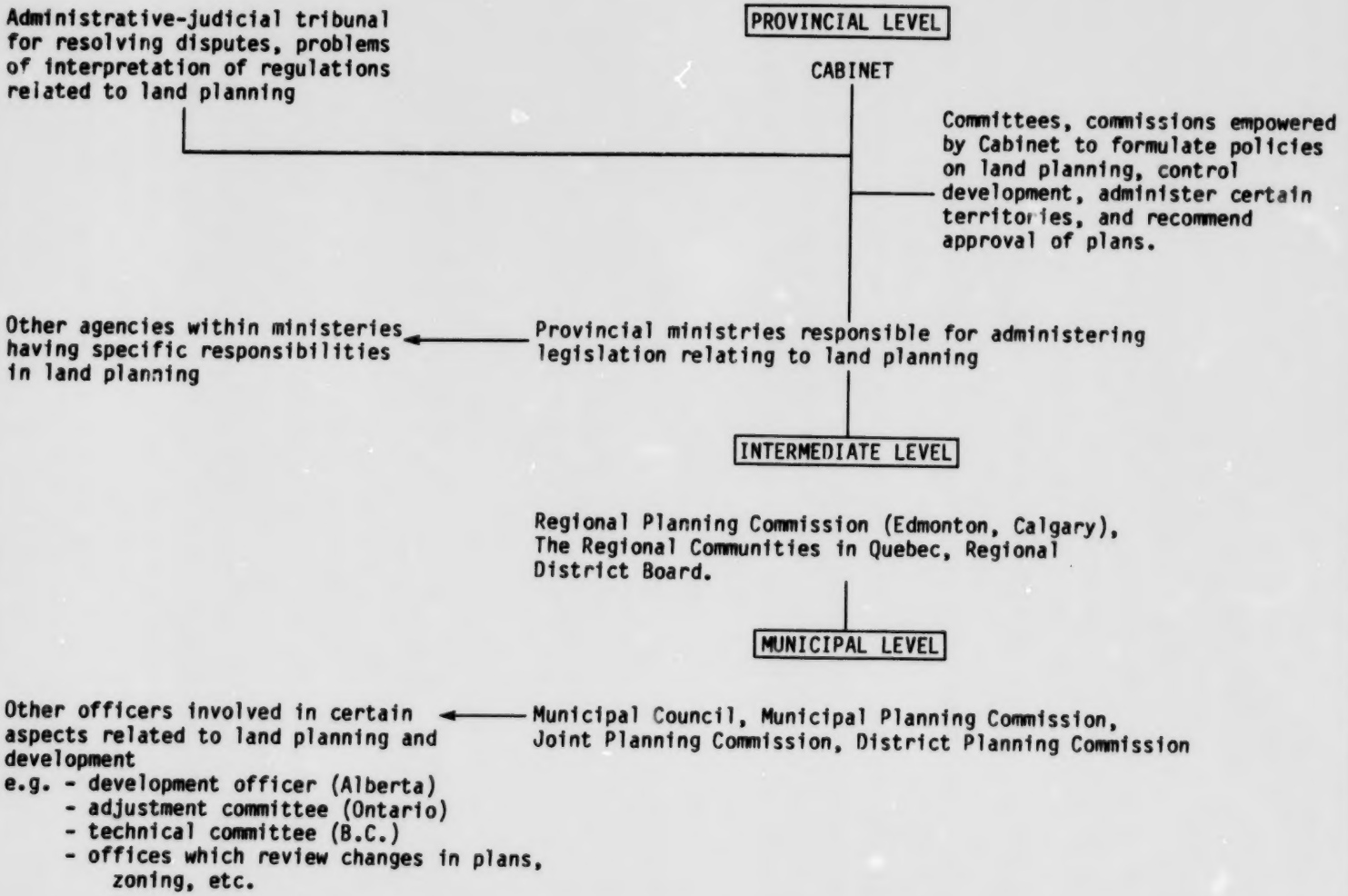
Provincial governments are usually responsible for identifying long and short-term objectives concerning land use, allowing them to formulate land-use policies and quidelines, (Manitoba, Alberta, Ontario, Saskatchewan, Nova Scotia and New Brunswick). These policies and guidelines should provide local administrations with an operational framework that permits greater degree of autonomy and management responsibility in land planning.

Provincial governments, usually through their departments of Municipal Affairs (though sometimes through their Lieutenant Governors-in-Council), are charged by provincial legislatures with administering land planning legislation. The governments can:

- designate development areas (Saskatchewan, British Columbia, Nova Scotia, Ontario, Newfoundland);
- approve development plans previously prepared by municipal councils (Newfoundland, Nova Scotia, Ontario, Manitoba, Saskatchewan);
- approve regional plans (Alberta, Newfoundland, Nova Scotia, British Columbia, Ontario, New Brunswick);

TABLE 6

DYNAMICS OF INSTITUTIONAL FRAMEWORK FOR PRIVATE LAND PLANNING: GENERAL MODEL


Administrative-judicial tribunal for resolving disputes, problems of interpretation of regulations related to land planning
PROVINCIAL LEVEL
CABINET
Committees, commissions empowered by Cabinet to formulate policies on land planning, control development, administer certain territories, and recommend approval of plans.
Other agencies within ministeries having specific responsibilities in land planning
Provincial ministries responsible for administering legislation relating to land planning
INTERMEDIATE LEVEL
Regional Planning Commission (Edmonton, Calgary), The Regional Communities in Quebec, Regional District Board.
MUNICIPAL LEVEL
Other officers involved in certain aspects related to land planning and development
e.g. - development officer (Alberta)
- adjustment committee (Ontario)
- technical committee (B.C.)
- offices which review changes in plans, zoning, etc.
Municipal Council, Municipal Planning Commission, Joint Planning Commission, District Planning Commission

- approve such other types of plans as area plans, site plan, re-development plans, community plans (Newfoundland, Manitoba, Ontario, British Columbia);
- approve zoning regulations prepared by municipal councils (Nova Scotia, Ontario, New Brunswick, Saskatchewan);
- approve subdivision regulations (Ontario, Manitoba (except Winnipeg), Nova Scotia);
- review subdivision approvals (Ontario).

In Prince Edward Island, plans are approved by the Land Use Commission. Other provincial ministries have various responsibilities for land planning, either for resource utilization in particular areas or in the planning process itself (plan, zoning, subdivision preparation, review and implementation). More detailed discussions follow in relevant sections dealing with the land-planning framework of each province.

### 1.3.2 Role of Regional Governments

Some Canadian provinces have established regional government structures charged with developing and implementing regional planning programs: in Alberta, there are the Regional Planning Commissions responsible to prepare land-use by-laws; in British Columbia, there are the Regional District Boards; in Ontario, there are the Regional Planning Boards; in Quebec, the regional communities. These regional agencies have essentially the same functions and scope of authority. Regional administrations can:

- prepare and adopt regional plans;
- assist local municipalities in preparing municipal plans (or approving local plans if such authority has been delegated like in Ontario), zoning regulations, subdivision regulations, and construction by-laws;
- in the case of British Columbia, undertake planning for unorganized district areas (District Planning Board) and prepare regional plans.

### 1.3.3 Role of Local Administrations

With certain planning responsibilities delegated to local councils, local administrations have essentially become land-planning administrators as well as the principal managers of municipal lands and public utilities.

Most provincial governments have entrusted planning responsibilities and powers to municipal councils, which therefore constitute the local authority (Ontario, Quebec, Prince Edward Island, Nova Scotia, Saskatchewan, Manitoba, Alberta, British Columbia). These municipal councils are responsible for preparing municipal plans and any of the subsequent amendments in the plan.

New Brunswick and Newfoundland are the only two provinces where preparation of plans are essentially the prerogative of provincially-employed planners.

Municipal councils can adopt their own municipal plans through municipal by-laws, but in most provinces ministerial approval is required before plans can be implemented. In Québec, Alberta, British Columbia, and Prince Edward Island, approval by the minister is not necessary. Most local municipalities can obtain assistance from either a technical planning committee (British Columbia, Ontario, Saskatchewan, Alberta, and Nova Scotia) or from the minister responsible for administering the provincial land-planning act.

## Land-Use Regulation

In addition to exercising almost complete authority in preparing and adopting municipal plans, municipalities can also implement plans through regulations on land use, zoning, subdivision, construction and, in some cases occupancy and maintenance standards. Preparation of a zoning by-law is mandatory in Newfoundland, New Brunswick, Alberta and Manitoba. Municipal councils in all the provinces are responsible for preparing, adopting, and modifying zoning plans, although in instances where there is no municipal government, this responsibility is left to the provincial government. In Québec, Manitoba, British Columbia, and Alberta, municipalities can approve zoning by-laws by simple majority vote of council members.

Some provinces require that public hearings be held before any regulations are adopted or modified (British Columiba, Nova Scotia, New Brunswick, Québec, Alberta, Saskatchewan). In Manitoba, Ontario, and Prince Edward Island, municipal councils are required to circulate notices prior to the first reading of regulations advising the public of their intention of adopting the regulations, but hearings are optional.

Zoning regulation has been in widespread use since the 1930s as a means by which local government can legally control land use, changes in land use, occupancy densities, and development levies. Local administrations therefore have their greatest discretionary power at this level.

## Building Codes

Municipalities are also generally responsible for preparing and enforcing building by-laws. As the principal managers of the built-up environment, local governments can exercise control through building permits or construction standards set by municipal by-laws. The authority to

use building permits to ensure enforcement of zoning by-laws exist in Nova Scotia, Québec, Manitoba, British Columbia, Saskatchewan and New Brunswick. It is also through building by-laws that P.E.I., Nova Scotia and Québec can regulate design of construction. As for Alberta, Saskatchewan and British Columbia, design can be regulated through development control schemes as for Ontario, site plan by-laws control landscaping and design of buildings. It should be noted that the federal government, through the National Housing Act, has exerted significant influence on the quality of residential construction and ancillary services. Canada's National Building Code establishes detailed requirements for residential construction in respect of durability and performance. These requirements comprise the Residential Construction Standards used by the Central Mortgage and Housing Corporation, and they are usually adopted in their entirety by local administrations.

## Subdivision Regulation

Local governments also have some authority over subdivision which is an important instrument in public and private land planning. In British Columbia, Québec, Newfoundland, and Alberta (Edmonton and Calgary) local governments are responsible for preparing and approving subdivision plans. In the provinces of Alberta, Saskatchewan, New Brunswick, and Nova Scotia, local governments implement regulations that are prepared and approved by provincial Lieutenant Governors-in-Council and define the ways in which the regulations are to be enforced.

Only in Ontario is final control over subdivision the sole responsibility of the provincial government. In Manitoba (except Winnipeg) and in Prince Edward Island, control is retained at the provincial level, though local governments can appeal subdivision regulations.

## General Planning Authority

Municipalities are acquiring greater responsibilities over the regulation of some types of land use and associated land activities such as sewage disposal, mining sites, highways, and flood zones. The laws governing municipalities establish the domains of municipal responsibility, but activities are regulated by the appropriate provincial statute.

Since they are required to provide broader services over the areas under their jurisdiction, municipal administrations have been given greater authority and autonomy in land planning and management. Local governments can, in fact, exercise authority in:

- regulating occupancy standards and assessing environmental factors in order to exercise better control on development activities;
- establishing the means for attaining the objectives of official plans - local governments can acquire land, oblige development to absorb the capital costs associated with proposed development projects, and demand higher quality services;
- regional planning, by virtue of the increased power accorded to member municipalities within the decision structure of the regional planning process;
- selecting voluntary associations to engage in the joint land-planning process.

## I LAND-USE CONCERNS AND TRENDS

The rapidly developing province of Alberta adopted new planning legislation in 1977 to improve its land-planning process. The new Planning Act was designed to settle land-use conflicts and took steps towards improving relations between municipal and provincial authorities and integrating the public into the planning process. Many concerns affect Alberta at present, largely because of rapid economic growth and its consequences on land development. These concerns have been articulated by various provincial study groups and a number of individuals.

Some issues have arisen as a result of the emergence of new resource communities in the province. Most of these communities do not begin as formally organized municipalities and thus lack required services, such as sanitation facilities, extended road networks, and recreational facilities. The Fort McMurray region and the resource towns of Swan Hills and Grande Cache illustrate the development problems that have occurred due to rapid growth.

As a result of anticipated rapid growth, the rate of loss of agricultural land has increased considerably in the past decade. Farmlands in the urban-rural fringe have been significantly affected by the annexation of land from rural to urban municipalities. The consequence of these transactions can be land speculation and further degradation of good agricultural lands.

Some have suggested that the present Subdivision Regulations are inadequate both in terms of protecting various land uses and in meeting objectives set forth in the general municipal plans.[1] This is due in large part to the fact that land-use criteria are not set forth in the Subdivision Regulations and ultimate control of land uses in accordance with general municipal plans actually lies with local by-laws.

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[1] Mary Gordon, Agricultural Land and Land Use Planning in Alberta: A Review of Planning Legislation and Practices (Prepared for Alberta Environment Council, 1981), p. 23

Current concerns regarding the planning process and related legislation have resulted in proposed amendments to the Planning Act. Issues that are being being raised include:

- application of urban planning concepts in a rural context;
- lack of plan specifications and time-frame requirements in the Act;
- limited scope of mechanisms which permit the Province or a Regional Planning Commission to monitor and supervise the municipal planning process;
- a lack of enforcement of local development controls through local land use by-laws.[2]

These concerns have been expressed by various groups including the Environment Council of Alberta, the Department of Municipal Affairs, and the City of Calgary Planning Commission.

## II LAND PLANNING IN ALBERTA

The main piece of legislation that deals with private land planning is the Planning Act, R.S.A. 1980, c.P-9, which responds to the need for better land development, more public participation, more local autonomy, less administrative delays for bringing land onto the market, and recognition of broad provincial and regional concerns.

The Planning Act defines the nature of relations between municipalities and the provincial government and sets forth planning methods and tools as part of an administrative structure (regional plans, general municipal plans, and land use by-laws). Under this system, regional plans must conform to the provincial objective of protecting the natural environment and preserving the welfare of the community living in a given area. In the same way, a general municipal plan must conform to the development goals and objectives stated in the regional plan.

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2 Diane Marcus, "Urban Planning Services, Calgary Regional Planning Commission", in Canadian Institute of Planning Task Force on Planning Acts, Interim Report (1980).

The Subdivision Regulations (132/78), pursuant to the Planning Act, govern the land-subdivision process in the province and such land-use concerns such as the protection of agricultural land and development of sour gas facilities. Basic standards are set forth in these regulations, making them an important tool, in conjunction with local and regional plans, for the control of land use and development. Section 20 of the Subdivision Regulations for instance, prohibits the subdivision of plots of land for residential purposes in a periphery of 8.3 km from a town or village with a population of over 5,000.

A number of planning guidelines have recently been set forth by the Alberta Planning Board clarifying what should be contained in a regional plan, thereby facilitating the task of evaluating regional plans submitted to the board by regional planning commissions and stating government policy relating to matters such as rural industrial development, preservation of agricultural land, and urban-fringe development.

### Regional Planning Experience (Map 1)

Regional planning was initiated in Alberta in 1950. Regional Planning Commissions have an important function in the overall planning framework due to their responsibilities in preparing a regional plan, assisting local municipalities in planning matters, and generally encouraging public participation in the planning process. New Regional Planning Commissions are formed by Order of Cabinet and encompass areas of land containing several functionally-related municipalities. Commission members consist of locally elected municipal officials who are appointed by their municipality to represent them. The Commission is required to prepare a regional plan and is guided in this task by the Alberta Planning Board (see Figure 1). Approval of a regional plan involves not only public participation through formal hearings prior to being adopted regionally, but also review and comment from the Alberta Planning Board prior to final approval by the Minister of Municipal Affairs. Amendments generally follow the same pattern.

There are now ten regional planning commissions in Alberta, and, at present, one regional plan has been approved by the Minister[3]; the remaining nine are scheduled for approval prior to December 31, 1983.

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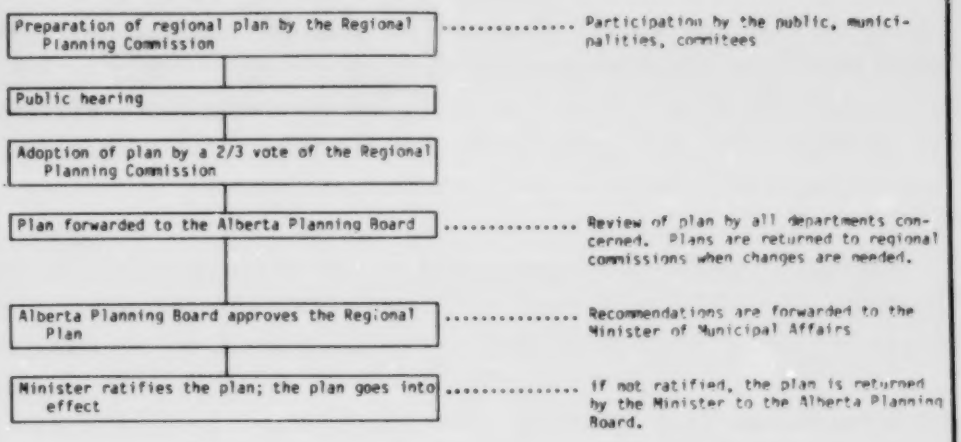
[3] The Battle River Planning Commission. 1982. The Battle River Regional Plan.

**MAP 1: REGIONAL PLANNING DISTRICTS IN ALBERTA**

Source: Inter-Agency Planning Branch, 1980. Planning in Alberta: A Guide and a Directory. Planning Services Division. Alberta Municipal Affairs. P. 80.

FIGURE 1

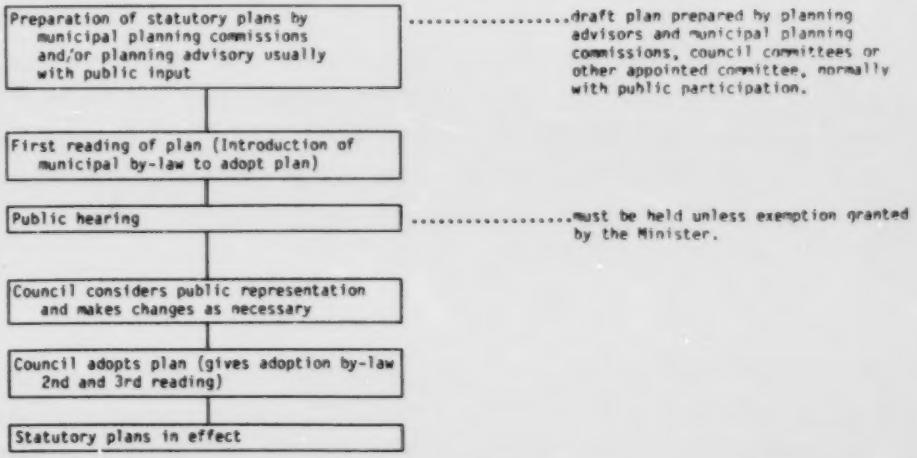
PREPARATION, ADOPTION AND APPROVAL OF REGIONAL PLANS IN ALBERTA


Preparation of regional plan by the Regional Planning Commission
Participation by the public, municipalities, commitees
Public hearing
Adoption of plan by a 2/3 vote of the Regional Planning Commission
Plan forwarded to the Alberta Planning Board
Review of plan by all departments concerned. Plans are returned to regional commissions when changes are needed.
Alberta Planning Board approves the Regional Plan
Recommendations are forwarded to the Minister of Municipal Affairs
Minister ratifies the plan; the plan goes into effect
if not ratified, the plan is returned by the Minister to the Alberta Planning Board.

NOTE: From the Planning Act, Section 45

FIGURE 2

PREPARATION AND ADOPTION OF STATUTORY PLANS IN ALBERTA


Preparation of statutory plans by municipal planning commissions and/or planning advisory usually with public input
draft plan prepared by planning advisors and municipal planning commissions, council committees or other appointed committee, normally with public participation.
First reading of plan (Introduction of municipal by-law to adopt plan)
Public hearing
must be held unless exemption granted by the Minister.
Council considers public representation and makes changes as necessary
Council adopts plan (gives adoption by-law 2nd and 3rd reading)
Statutory plans in effect

NOTE: Includes general municipal plans, area structure plans, and area redevelopment plans, from Planning Act, Section 59

## Local Planning in Alberta

At the municipal level, the development of land is controlled by a general municipal plan prepared by the local council (see Figure 2). The scope of these plans is generally limited to controlling physical development of land: for example, the preferred land uses, the direction of growth, the transportation network, the level and type of infrastructures needed, and other other matters as the local council considers necessary. Urban municipalities with populations greater than 1,000 and rural municipalities with populations greater than 10,000 must prepare a general municipal plan.

Conformity with provincial and regional policy is ensured through the requirement that general municipal plans be consistent with approved regional plans. Problems of non-compliance can be taken before the Alberta Planning Board (APB) for resolution.

Other types of plans which are used at the municipal level are area structure plans and area redevelopment plans. The area structure plan is a concept plan of an area of land in a municipality; it identifies various potential land uses on a more detailed scale. When a municipality wishes to revitalize land use in a given neighbourhood or in a portion of its area through redevelopment, an area redevelopment plan is formulated; the plan may allow the imposition of a redevelopment levy to cover costs in providing lands for some public purposes.

General municipal plans and other plans are implemented through the local municipalities' land use by-laws, which provide for appropriate use of land in accordance with senior planning documents and the control of development in accordance with the plan. Development control is a purely local matter in Alberta.

## Other Legislation Related to Planning

Legislation administered by other departments affecting the planning process includes: the Department of Environment Act R.S.A. 1980 D-19 which calls for environmental impact assessments; the Regulated Lakeshore Land Development Operation Regulations and Restricted Development Area Regulations; the Public Land Act R.S.A. 1980 P-30 which provides for administration of public lands; and a number of other statutes which affect specific forms of development.

## Protection of the Built and Natural Environment

There are several mechanisms allowing local municipalities to control the built and natural environment in their planning area. Local councils through land use by-laws can control the design and character of buildings, as well as their landscaping, and prohibit development on lands subject to flooding, marshy lands or unstable lands. Local councils can also designate certain areas of the municipality as direct control districts where they can exercise particular controls over the use and development of land and buildings. Through subdivision controls, the Subdivision Approving Authority may require an owner of a parcel to provide part of that parcel as an environmental reserve if it contains a swamp, gully, ravine or natural drainage course or is land subject to flooding.

However, most of the authority to protect the natural environment, resides in the hands of the Lieutenant Governor-in-Council; he may enact regulations that establish any area as a special planning area where he can prohibit and control demolition, removal of buildings, land uses, development, and occupation of land and buildings. The Lieutenant Governor-in-Council can also authorize Crown agencies to consent to land uses and control expropriation.

The Department of Environment administers similar provisions to the Planning Act with the use of the Restricted Development Area Regulations 212/76. These regulations also enable Cabinet to establish such areas by special order-in-council, and provide for special control over development.

The Department of Culture has strong powers respecting the protection of areas or locations that have important historic or archeological value and can order the protection of such areas as historic sites. The Department also has the authority to prevent any land development or other activities that are perceived to be in conflict with their objectives.

## Public Participation

Public participation is an integral part of the planning process, particularly in the development of plans. There are many opportunities for public input in the planning process. Before adoption of any regional or local plan or local land use by-law, public hearings must be organized where the views and comments of the public can be voiced. The public may also participate in the local planning process through participation in the municipal planning commission, which is composed of some individuals from the community that have been appointed by Council. There is also an appeal process available for applicants whose subdivision plan was refused by the Subdivision Approving Authority.

## III ALBERTA'S ADMINISTRATIVE PLANNING STRUCTURE

Planning and development control responsibilities are shared by three levels of authority: the provincial government, the regional planning commission, and local municipalities.

### Provincial Government

The provincial government's role is primarily one of setting government policy, which is reflected in a variety of guidelines and the approval of regional plans. The government also establishes the legislative authority for delegation of powers to regional planning commissions and local municipalities.

The Department of Municipal Affairs oversees the Planning Act and the Subdivision Regulations. The Planning Branch of the Planning Services Division provides planning advisory services to municipalities not served by regional planning commissions. The Inter-Agency Branch provides advisory services to regional planning commissions as well as co-ordination and liaison services between agencies on land use planning matters. The Research and Development Branch conducts research on planning and development policies and formulates policy recommendations concerning provincial growth, urban dynamics and resource development.

Attached to the Department of Municipal Affairs is the Alberta Planning Board. The Board plays a significant role in the planning process and is a quasi-judicial authority made up of people appointed by the Minister of Municipal Affairs. Its responsibilities consist of reviewing all regional plans proposed by regional planning commissions, making recommendations on them to the Minister of Municipal Affairs, and acting as a tribunal to resolve inter-municipal disputes and as an appeal body on land-subdivision decisions.

The Alberta Planning Board is organized into three committees: first, the Appeal Committee hears appeals of subdivision decisions and appeals where applications to amend regional plans have been refused; second, the Finance Committee administers the Alberta Planning Fund, which finances regional planning commissions; third, the Planning and Research Committee has no direct link with local or regional municipalities, but reviews provincial planning policy issues and formulates other policies (e.g., rural industrial land use policies).

The Local Authority Board, which is attached to the Department of Municipal Affairs, affects planning in that it deals with the annexation of lands from one municipality to another.

Other provincial departments, such as the Department of Transportation, the Department of Energy and Natural Resources, and the Department of Culture, also play a role in the municipal planning process through the following means:

- by providing advice to local municipalities and regional planning commissions regarding the development of certain resources (Agriculture, Environment, Energy and Natural Resources);
- by monitoring subdivision plans located near provincial roads and giving consent to those plans (Transportation);
- by regulating certain areas of the province (Environment, Culture).

### Regional Planning Commission

Alberta's regional planning commissions are intermediate agencies between the provincial and local governments. This intermediate structure was set up almost 30 years ago to facilitate planning administration and to decentralize planning functions, which were previously the responsibility of the provincial government.

Regional planning commissions now have authority to approve subdivisions and prepare regional plans. The commissions can prepare municipal statutory plans and/or land use by-laws at the request of a municipality within their region, advise local municipalities on planning related matters, and encourage public participation in the planning process.

### Local government

Local municipalities are also responsible for the enforcement of provisions of the Planning Act. Municipal councils are free to determine the specific content of a general municipal plan, adopt land use by-laws assigning permitted uses of land within defined sectors of a municipality, include in land use by-laws provisions establishing a procedure for a notice of the issuance of development permits, establish direct control districts, and impose off-site or redevelopment levies on certain areas of a municipality in order to defray the cost of services.

Local municipalities are responsible for the control of development through issuance of development permits and can require that applicants for development permits enter in agreements with the municipality so that the costs of construction of public utilities and other related public services (parks, roads, parking) be shared. Local councils can also establish, if they so wish, municipal planning commissions, or joint municipal planning commissions with other municipalities, and delegate some planning responsibilities to these commissions.

At the regional level, local municipalities can offer suggestions on a regional plan before its adoption. They can also make appeals before the Alberta Planning Board on regional plan amendments, intermunicipal disputes, as well as decisions of the Subdivision Approving Authority on subdivision matters. Municipal councils also determine whether municipal reserve should be used for public parks, recreation areas, or buffer zones and can transfer the reserve to a school authority, or sell, lease, or dispose of municipal reserve if it is no longer required. The Minister of Municipal Affairs may appoint a local council subdivision authority for its municipality, if the local council has adopted a general municipal plan and a land use by-law.

## I LAND-USE CONCERNS AND TRENDS

The planning framework in British Columbia is constantly evolving. The protection of agricultural land has been, since 1973, a recognized provincial concern. The province's most highly urbanized areas are along the southern Pacific coast and in the lower mainland and most of the good farmlands are found in the same areas. Urban sprawl and other competing uses for land have had adverse effects on the land resource and its development.

There have been numerous amendments to the Municipal Act, related mostly to land-use and other controls put in place through various planning programs. For example, a development-variance permit system was introduced to make some aspects of development standard and design more flexible. Other changes involved the recovery of basic costs of development to the municipality.

In terms of land planning, the main concern has been the redefinition of the administrative structure for municipal planning. Proposals for a new Planning Act were initiated in 1979 in response to concerns and problems expressed by local governments, regional district boards, and the provincial government. Two areas where planning mechanisms could be improved have been identified as the following:

- providing an appeal mechanism for responses to local planning matters;
- conflicts between provincial departments involved in regional development could be alleviated by a more formal structure between departments.[1]

This new Planning Act proposed to streamline the development control process for the benefit of developers by providing a simpler administrative framework.

Succeeding the discussion paper on the new Planning Act was Bill 9, the Land Use Act, which proposed many changes; among the most important ones are the abolition of regional planning and amendments to the local planning process. This bill was introduced in the Legislature after the government's election in May, 1983.

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[1] British Columbia Ministry of Municipal Affairs. N.D. The Planning Act: A Discussion Paper. Province of British Columbia.

## II LAND PLANNING IN BRITISH COLUMBIA

The more important Acts defining the planning framework include the Environment and Land Use Act R.S.B.C. 1979 c.110, the Municipal Act R.S.B.C. 1979 c.290, the Agricultural Land Commission Act R.S.B.C. 1979 c.9, the Land Act SBC 1970 c.17, the Forest Act SBC 1978 c.23, the Environmental Management Act, and the Islands Trust Act SBC 1974 c.43.

The most powerful piece of legislation affecting land-use decisions in the province of British Columbia is the Environment and Land Use Act, which establishes the Environment and Land Use Committee (ELUC) of Cabinet. The administration of this Act is the responsibility of the ELUC, which is comprised of the Ministers of all ministries with mandates pertaining to the management of land and its natural resources. The ELUC includes the Ministers of Agriculture and Food; Energy, Mines and Petroleum Resources; Forests; Industry and Small Business Development; Environment; Lands, Parks and Housing; Municipal Affairs; Transportation and Highways; and Intergovernmental Relations.

This Act supersedes all other provincial legislation pertaining to the environment and/or land use (Section 6), so all significant land-use issues in the province are brought to this Committee for final approval. All land-related Orders-in-Council (such as provincial forest designations, provincial park designations, wildlife reserves, etc.), regardless of whether they are proposed pursuant to the Land Act, Forest Act, Park Act SBC 1965 c.31, or Environment and Land Use Act, are reviewed by the ELUC prior to their approval by the Lieutenant Governor-in-Council. Controversial issues involving the use of private lands, which are normally the responsibility of local government authorities to resolve pursuant to the Municipal Act, may also be presented to ELUC, since Section 6 of the Environment and Land Use Act allows the Cabinet to make any order it considers advisable respecting the environment or land use on private as well as Crown land. This section was used, for example, to enable the province to undertake and implement a plan for the private and Crown lands in the environmentally-sensitive Cowichan River Estuary. Section 6 was also used to establish the initial "freeze" on farmland in 1972 prior to the proclamation of the Agricultural Land Commission Act.

In summary, the Environment and Land Use Act provides the broad framework under which decisions on land planning take place in the province of British Columbia. Planning here involves the extensive use of committees and consequently relies heavily on a spirit of cooperation among the various ministries with mandates for the planning and management of land and its natural resources.

The legislative authority which enables municipalities and regional districts to regulate the use of land within their boundaries is contained in the Municipal Act. Because approximately 80 percent of British Columbia's population resides within municipal boundaries, the planning program that most directly affects British Columbians is that of municipal governments. These plans, however, only cover an area that is less than one percent of the province's land base. The land planning programs of the regional districts, under the Municipal Act, serve most of the province's rural residents.

Official community plans direct the pattern of land and/or water use and the pattern of subdivision of land in all areas of the municipality. Although these plans normally focus on residential, commercial, industrial, and recreational uses, in many municipal districts there are significant areas of lands designated as Agricultural Land. Adoption of an official community plan requires an affirmative vote of a majority of the members of the local council. Final approval by the Minister of Municipal Affairs is required before the official community plan takes force.

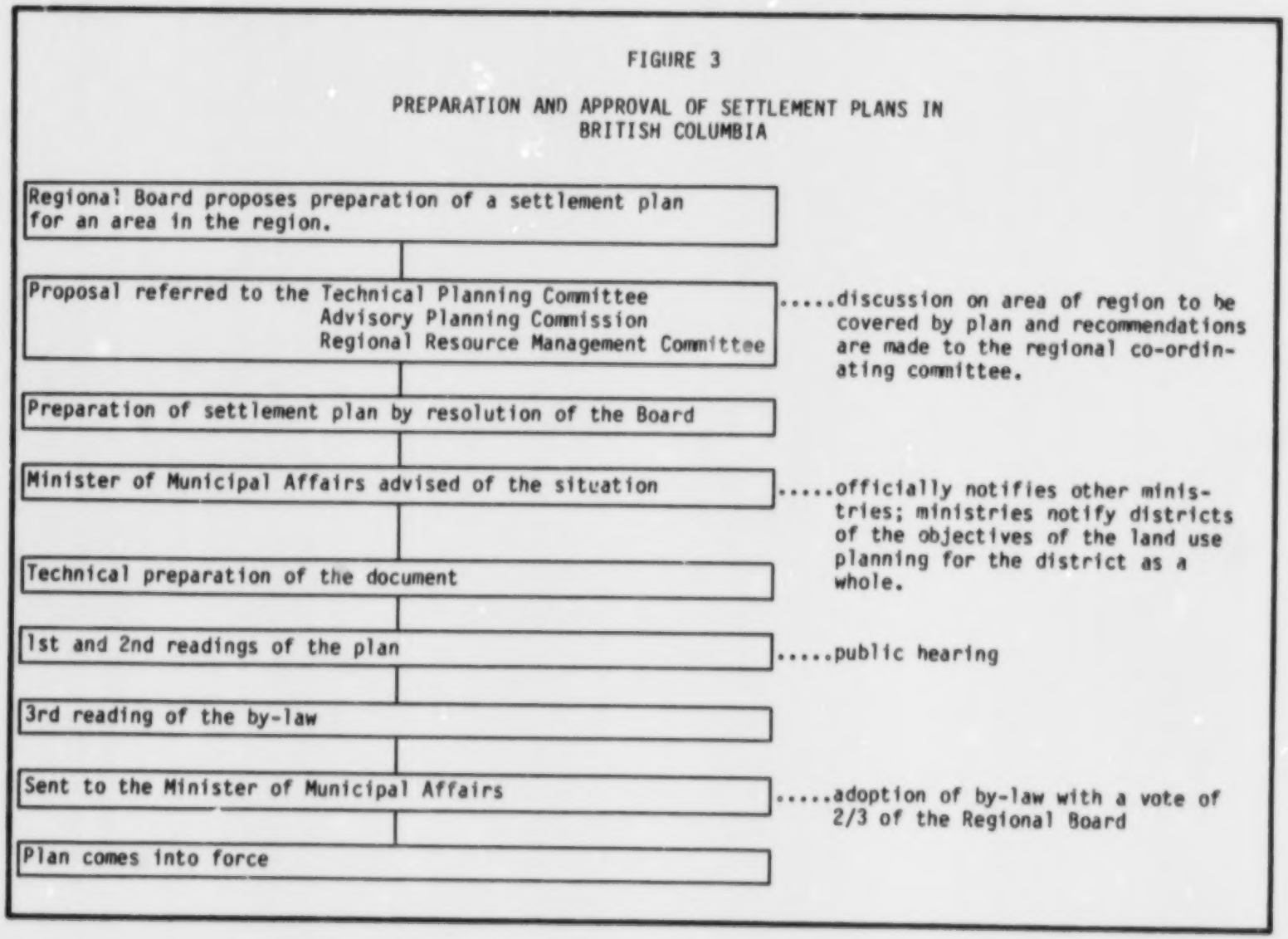
The requirements of an official settlement plan are laid out in considerable detail in Section 810 of the Municipal Act. These plans form the unorganized area counterpart to a municipal official community plan and provide the "basis for the preparation and adoption of land use regulating by-laws and amendements to them" (Section 810(1)). Adoption of official settlement plans and official community plans requires an affirmative vote of a majority of the regional board directors present at the meeting, having among them a majority of the votes cast (the second criterion refers to the weighted number of votes based on the population represented by a particular director). The by-law adopting the official settlement plan also requires the approval of the Minister of Municipal Affairs before it comes into force (see Figure 3). Prior to being dealt with by the regional board, these plans must also be referred to the regional district's Technical Planning Committee (TPC).

Because official settlement plans are generally undertaken in areas encompassing the urban/rural fringe and the interface between settlement and resource lands, numerous provincial agencies are often affected by the plan policies of an official settlement plan. These plans therefore, often call for the same kind of cooperation between provincial resource agencies and the regional district that was earlier identified to be critical in the completion of the plans prepared by provincial government ministries.

The Agricultural Land Commission Act is the statute under which the province's Agricultural Land Reserves (ALR) are administered. The main objectives of the Commission are "to preserve agricultural land, encourage the establishment, maintenance, and preservation of

FIGURE 3

PREPARATION AND APPROVAL OF SETTLEMENT PLANS IN BRITISH COLUMBIA


Regional Board proposes preparation of a settlement plan for an area in the region.
Proposal referred to the Technical Planning Committee
Advisory Planning Commission
Regional Resource Management Committee
.....discussion on area of region to be covered by plan and recommendations are made to the regional co-ordinating committee.
Preparation of settlement plan by resolution of the Board
Minister of Municipal Affairs advised of the situation
.....officially notifies other ministries; ministries notify districts of the objectives of the land use planning for the district as a whole.
Technical preparation of the document
1st and 2nd readings of the plan
.....public hearing
3rd reading of the by-law
Sent to the Minister of Municipal Affairs
.....adoption of by-law with a vote of 2/3 of the Regional Board
Plan comes into force

farms and encourage uses of land in an agricultural land reserve compatible with agricultural purposes" (Section 7(a), (b)). These objectives are primarily met through the establishment of ALR's on most of the province's arable (CLI Agriculture Capability Classes 1-4) land. Approximately five percent of the province's land base is in the ALR.

### Other Legislation Related to Planning

The province also has several other pieces of legislation which provide more limited or less explicit authority for various government agencies to undertake planning-related studies.

Since almost 85 percent of the province's land base is classified as provincial forest, the planning program through the enabling provisions of the Forest Act has a significant impact on the provincial landscape. Types of plans which are prepared, approved, and implemented by the Ministry of Forests include: a provincial level forest and range resource analysis, timber supply area plans, tree farm licence management and working plans, range unit plans, watershed plans, coordinated resource management plans (including community pastures), and operational logging plans.

The Land Act provides the primary basis for the Crown land planning program under the Ministry of Lands, Parks and Housing. The general purpose of this program is to identify the most suitable uses of Crown land within a planning area (privately-owned land within the plan area is exempt from any of the plan's policies), secure such areas for those uses, and establish guidelines and policies for the management and development of these Crown lands.

Crown land plans are generally undertaken in areas with potential for settlement expansion, since most of the land (i.e., agricultural, commercial, industrial, residential, quarrying, etc.) administered by the Ministry of Lands, Parks and Housing is typically located in these areas. In the past, the Ministry's planning program has focussed on "unreserved" Crown lands. A memorandum of understanding between the Ministry of Lands, Parks and Housing and the Ministry of Forests, which allows the Crown land planning process to be used to identify "non-forest" uses within provincial forest boundaries, will likely result in an increase of Crown land planning activities inside provincial forest boundaries.

The approval of Crown land plans normally rests with the Minister of Lands, Parks and Housing, or is delegated to the Deputy Minister. If land allocation issues cannot be resolved at the staff level then plans are referred to ELUC for decision.

The Ministry of Environment planning program, through the enabling provisions of the Environment Management Act, is currently directed towards the development of sound resource management strategies for the province's water resources, fisheries and aquatic life, wildlife resources, waste, and air. The information compiled in these planning studies and the resource management strategies adopted by the Ministry can then be used in determining appropriate land policy for wildlife habitat and other environmental resources.

The Utilities Commission Act S.B.C. 1980 c.60 establishes a review process by which major energy projects obtain certification. In British Columbia, most energy projects are hydro-electric and therefore involve extensive flooding of land which, in many cases, has good suitability for alternative uses (such as recreation, agriculture, wildlife, and fish habitat). Energy-related transmission corridors also occupy significant areas of land since energy developments are often located far from the main demand area of the Lower Mainland. The evaluation of the impact of energy projects on the use of land is an important part of the review process undertaken by the Utilities Commission and, in many respects, closely resembles land-planning analysis. The B.C. Development Commission, pursuant to the Development Commission Act, is responsible for the disposition of sites for industrial uses as part of its mandate to assist in the continued operation of industrial enterprises in the province (Section 4). The Commission exercises this responsibility by assessing the suitability of various sites for industrial purposes and has played a major role in port development and redevelopment projects.

The Ministry of Transportation and Highways, through the Highway Act RSBC 1979 c.172, has been assigned responsibility to establish and alter highways in the province. The Ministry influences land use through Section 57(2) of the Act, which requires that all subdivision changes and improvements to land located within 800 metres of an intersection of a "controlled access highway" require approval of the Minister of Transportation and Highways.

The Islands Trust Act conveys the authority for the planning of land and resources in the trust area (which includes the Gulf Islands as well as several other islands in the Strait of Georgia) to a "trust committee" by giving it land-use responsibilities similar to those of regional districts (i.e., preparation and administration of regional plans, community plans, subdivision by-laws, and zoning by-laws). These plans and by-laws should support the basic purpose of the Trust, which is the preservation and protection of the "trust area and its unique amenities and environment for the benefit of the residents of the trust area and of the Province generally" (Section 4(1)).

### Regional Planning Experience

Each of the 28 regional districts in the province is administered by a regional Board of Directors, comprised of nominated council members from municipalities and elected members from unorganized areas.

A primary function of regional districts is the provision of regional planning services. Pursuant to the above-noted sections of the Municipal Act, regional districts are required to prepare regional plans ("general schemes without detail for the projected uses of land within a regional district, including the location of major highways" - Section 807).

Following the adoption of the plan as an official regional plan, the district is then required to prepare an official settlement plan for the unincorporated settlement areas in the regional district. The regional plan must be adopted by a majority of votes of the directors of the board in order for the plan to become official.

## III BRITISH COLUMBIA ADMINISTRATIVE STRUCTURE FOR PLANNING

### Provincial Government

Provincial governments are generally responsible for land administration. This authority cannot always be exercised unilaterally, however, because of other responsibilities and relations with international, national, and local levels of government through a wide variety of legislation and institutions. The government of British Columbia has delegated authority for the purpose of planning and controlling land use within municipal boundaries to local government. The provincial government has for the most part, however, authority and responsibility for land-use decisions.

Numerous government agencies are involved either directly or indirectly with land-use planning in the province of British Columbia. These agencies include provincial ministries, Crown corporations and commissions, regional district municipalities, and inter-agency committees. There is, for example, the Environmental Land Use Committee (ELUC) which plays an important role in land planning within the province. The ELUC is empowered to:

- establish and recommend programs designed to foster increased public concern and awareness of the environment (Sec. 3 (a));
- ensure that all aspects of preservation and maintenance of the natural environment are fully considered in the administration of land use and resource development,

are commensurate with a maximum beneficial land use, and minimize and prevent waste of those resources and despoliation of the environment occasioned by that use (Sec. 3(b));

- if considered advisable, to make recommendation to the Lieutenant Governor-in-Council respecting any matter relating to the environment and the development and use of land and other natural resources (Sec. 3(c));

- inquire into and study any matter pertaining to the environment or land use (Sec. 3(d));

- prepare reports, and, if advisable, make recommendations for submission to the Lieutenant Governor-in-Council (Sec. 3(e));

- hold a public inquiry whenever it appears to the committee that the proper determination of any matter within its jurisdiction necessitates an inquiry, and, for that purpose, the chairman of the committee is authorized to hold a hearing and has all the powers and jurisdiction of a justice under the Offence Act (Sec. 4(a));

- appoint technical committees (Sec. 4(b)).

While the above responsibilities do not specifically mention planning, it is through the planning process that "maximum beneficial land use" is normally determined. Technical advice to ELUC is provided by the Environment and Land Use Technical Committee (ELUTC), which is comprised of the Deputy Ministers of the ministries represented on ELUC. The specific functions of the ELUTC are:

- to provide advice to ELUC on broad land use and policy priorities;

- to act on ELUC's directives;

- to provide general direction to regional resource management committees and inter-ministry task forces on land or resource-related issues;

- to provide a forum for resolving significant land and resource issues not soluble at the regional level.

The ELUTC carries out its responsibilities with the assistance of the province's seven Regional Resource Management Committees (RRMC's). Each resource management region of the province has its own RRMC which is comprised of the senior regionally-based officials of each of the resource ministries represented on the ELUTC. Staff of local government authorities are not represented on this Committee since direct interaction between local and provincial governments at the technical level occurs at the level of Technical Planning Committees. The concerns of local government can, if appropriate, be expressed at the RRMC by the Municipal Affair's representative.

The primary function of the RRMC is to provide a forum where resource and land-use questions arising at the regional level can be considered by the combined expertise of all interested provincial agencies. Each RRMC thus acts as the key inter-ministry vehicle at the regional level for facilitating the planning, allocation, development, and management of land and its

natural resources by provincial government ministries. When appropriate, the ELUTC can also, with the approval of ELUC, assign a particular land planning or policy task to a headquarters' ministry or inter-ministry task force.

The Agricultural Land Commission does not have an explicit mandate for land planning, but the zoning powers that it does have are important in the use of land in the province and, therefore, in the development of land-use plans by other agencies. For example, policies contained in official community plans and official settlement plans prepared by municipalities and regional districts for ALR lands must be consistent with the intent of the Land Commission's objectives. Approval for non-agricultural use of ALR lands rests with the Land Commission with appeal to Cabinet (ELUC).

The B.C. Ministry of Forests is responsible for assessing the land in the province for its potential for timber production, forest-oriented recreation, forage production, and other forest uses; classifying land as forest land if it will provide the greatest contribution to the social and economic welfare of the province if maintained predominantly in successive crops of trees or forage; managing those lands designated by Cabinet as provincial forest lands for timber production, forage production, forest-oriented recreation, and other forest uses.

The Minister of Lands, Parks and Housing may, if he considers it in the public interest, designate the most desirable use of a portion of Crown land, withdraw the portion from disposition for a purpose other than the designated use, and amend or cancel the withdrawal.

The Ministry of Environment has the authority for "planning, research, and investigation with respect to the environment; development of policies for management, protection, and use of the environment; planning, design, construction, operation, and maintenance of works, and undertakings for the management, protection, and enhancement of the environment...; preparation and publication of policies, strategies, objectives, and standards for the protection of the environment; preparation and publication of environmental management plans for specific areas of the province...."

### Regional District Boards

The delegation of land planning responsibilities for regional districts is defined in Sections 806 to 816 of the Municipal Act. The regional district board is responsible for providing some planning services to non-municipal areas. The board can, for example, assist local areas in the preparation of official settlement plans, zoning plans, subdivision plans, and building by-laws.

The regional district board's most important responsibilities are in preparing a regional plan and providing the means required for its implementation. The district board must establish an advisory technical committee which acts as a liaison between the municipalities, the regional board, and the provincial government.

Technical Planning Commissions (TPC's) are comprised of the planning director for the regional district, one municipal employee, and representatives of provincial (and federal) government resource agencies. The purpose of the TPC is "to advise the Regional Board on planning matters referred to it by the Board, (and) act as liaison between the administration of the Regional Board and the respective ministries of Government and the member municipalities" (Section 815).

### Local Government

Municipal councils have regulatory powers with respect to land-use planning within their territory and, in theory, may not delegate the authority to prepare an official community plan. Sections 708 to 741 of the Municipal Act give municipalities the responsibility for enacting and administering zoning by-laws, subdivision control by-laws, building regulations, and by-laws designating community plans as official community plans.

## I LAND-USE CONCERNS AND TRENDS

Manitoba, with its relatively stable population, has nevertheless faced several landplanning issues because of urban growth near the periphery of urban centres. Agricultural lands continue to be affected by urban growth. Prime arable land has been replaced by residential, industrial, and particularly commercial subdivisions. For example, construction of shopping centres on the fringe of some urban centres has led town councils to annex agricultural lands from rural municipalities. Another trend in Manitoba is the migration from urban to rural residential areas. This phenomenon has for a time highlighted problems related to land speculation, the type of land ownership, and land transfers that used to be part of family bequests. This migration, however, appears to be slowing down.

Other major provincial concerns are related to development in the vicinity of provincial highways and the resulting highway access. Integrated planning of road networks and development should control ribbon development and prevent interference with the main function of the regional transportation network.

These issues reflect provincial concerns regarding land planning and development. In order to deal effectively with these issues, Manitoba has, through the enabling provision of its Planning Act, endowed itself with overall land-use policies which were proposed by municipalities and subsequently developed by the province in consultation with the municipalities and several public interest groups. The Planning Act has provided an effective means of reducing conflicts of interest in the use of certain resources. The objectives articulated in that document also express the concerns of various provincial departments and local governments. These departments are seeking to protect certain resources within their jurisdiction by controlling the management and development mechanisms of those resources.

Land-use concerns now facing the City of Winnipeg are outward physical expansion, the condition of housing, maintenance of roads, and underground utilities. The growth of districts on the periphery of the city has placed a heavy burden on the municipal budget, though the City of Winnipeg has recently provided some solutions for these problems.

## II LAND PLANNING IN MANITOBA

The Planning Act S.M. 1975 c.29 provides land planning for every local government, with the exception of Winnipeg which has its own charter enabling its council to plan. The purpose of the Planning Act is to supply a planning framework for municipalities in organized as well as unorganized territories. The Planning Act provides boards and councils with such instruments as development plans, basic planning statements, zoning by-laws, and subdivision control.

In the southern part of the province, the Planning Act is administered by the Department of Municipal Affairs. The local municipalities tend to be of a predominantly rural character; they comply with all the provisions of the Planning Act and have the same means of regulating land use in their area as do urban municipalities. In the unincorporated areas of the northern part of the province, the Planning Act is administered by the Department of Northern Affairs and administrative municipal procedures are subject to the provisions of the Northern Affairs Act S.M. 1977 c.35.

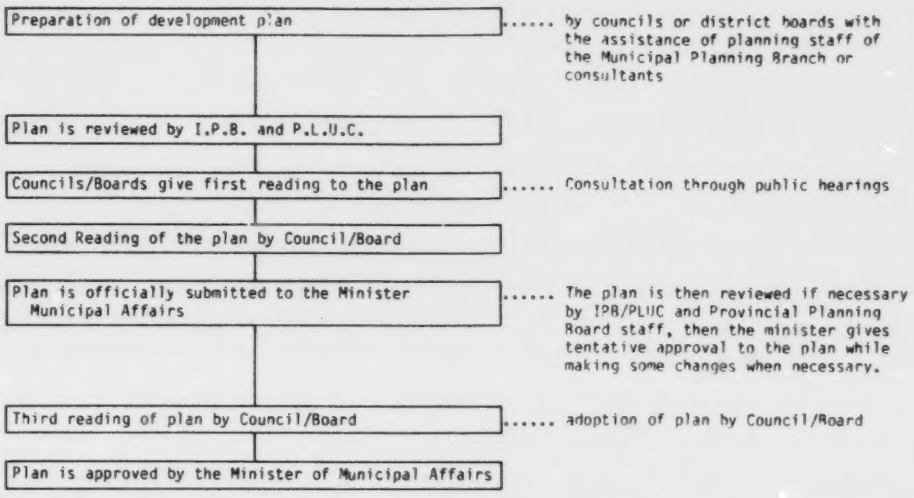
A development plan provides a framework within which development policies are formulated. The municipality thus identifies its own development orientation and incorporates it within land-use policies. Once approved by the province, municipal plans replace provincial land-use policies.

A plan attempts to provide a land-use model that is appropriate for the area's resources, specifying the programs and actions necessary for the implementation of the development plan, while at the same time taking into account the broad land-use policies prescribed by the various provincial agencies. Often in rural areas a simple basic planning statement is sufficient for dealing with anticipated development. A periodic review of the plan every five years is required. The proper procedure for adoption of a plan and basic planning statement is included in Figure 4.

In order to implement a development plan, councils or boards may require development permits. Such a permit is a municipal control mechanism designed to ensure that any development project complies with the provisions of the proposed development plan. The municipal council uses zoning by-laws or general development standards as its principal land-use control mechanism (see Figure 5).

FIGURE 4

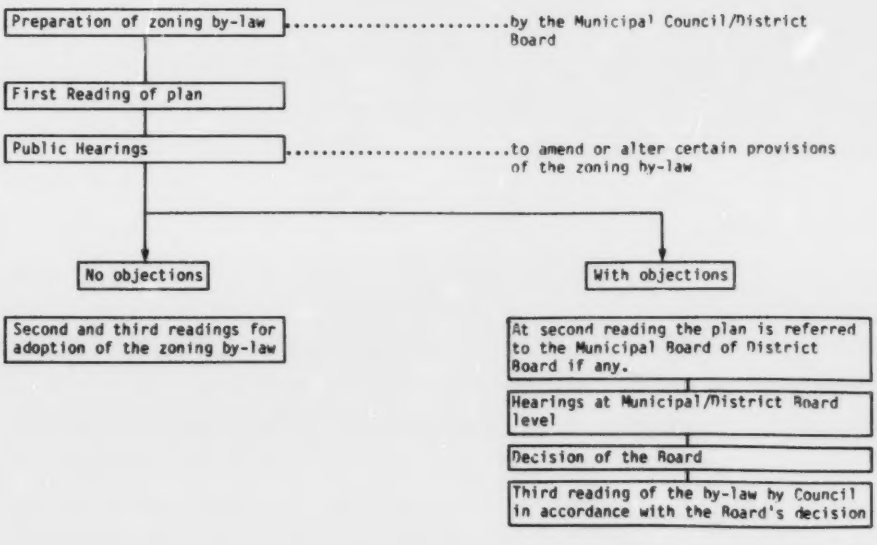
DEVELOPMENT PLAN ADOPTION AND APPROVAL PROCESS
IN MANITOBA


Preparation of development plan
..... by councils or district boards with the assistance of planning staff of the Municipal Planning Branch or consultants
Plan is reviewed by I.P.B. and P.L.U.C.
Councils/Boards give first reading to the plan
..... Consultation through public hearings
Second Reading of the plan by Council/Board
Plan is officially submitted to the Minister Municipal Affairs
..... The plan is then reviewed if necessary by IPB/PLUC and Provincial Planning Board staff, then the minister gives tentative approval to the plan while making some changes when necessary.
Third reading of plan by Council/Board
..... adoption of plan by Council/Board
Plan is approved by the Minister of Municipal Affairs

Note: This process can be applied to the Basic Planning Statement.

FIGURE 5

PROCESS GOVERNING ADOPTION OF ZONING PLAN IN MANITOBA


Preparation of zoning by-law
.....by the Municipal Council/District Board
First Reading of plan
Public Hearings
.....to amend or alter certain provisions of the zoning by-law
No objections
With objections
Second and third readings for adoption of the zoning by-law
At second reading the plan is referred to the Municipal Board of District Board if any.
Hearings at Municipal/District Board level
Decision of the Board
Third reading of the by-law by Council in accordance with the Board's decision

Any development which does not conform to the proposed zoning, may be referred to the Variation Board, which screens applications that are submitted to it. The zoning by-law may provide for conditional uses, which must comply with the criteria governing protection of the environment and compatibility with adjoining uses as set out by council. It is up to the municipal council to approve or reject such uses.

Subdivision approval and other orders relating to subdivision are in most cases granted by the Minister. However, it is possible for a District Board to obtain the Minister's authority to approve a subdivision plan for the area under their jurisdiction, in accordance with an agreement between the Board and the minister. Subdivision Regulations 30/77 govern the land-subdivision process and provide basic standards. These are adopted under the Planning Act.

Manitoba Regulation 217/80, Land Use Policies, is designed to allow the provincial government to free itself of the responsibility of day-to-day planning decisions, while at the same time retaining its prerogative to monitor the content of local plans. The policies comprise 13 specific land-use statements geared towards protecting the land resource within the territory.

The advantages of identifying such succinct guidelines are obvious, for they provide a means of evaluating subdivision applications and other land-use controls in a municipality where there is no plan in existence. These statements therefore serve as a frame of reference for municipalities and the province reviewing subdivision proposals. The guidelines on land use are based on three criteria:

- capability of the land;
- the existing land use;
- maintenance of reasonable level of environmental quality.

These policies are aimed at protecting such lands as significant resource areas, historic sites, flood plains, and sand and gravel deposits. The policies require that residential and other urban development occur in an orderly manner, and they attempt to provide a framework solution for specific planning issues relating to problems in urban fringes (see policies numbered 1,2,3,4 and 12 inclusive). These policies apply to all municipalities with the exception of Winnipeg which has its own legislation enabling the council to plan.

Winnipeg has its own planning framework, since Greater Winnipeg contains more than 54% of the province's population. Under the City of Winnipeg Act S.M. 1971 c.105, administered by the Department of Urban Affairs, the local government must prepare a plan for the Winnipeg

area. The plan for Winnipeg, called PLAN WINNIPEG, essentially forms the city's planning policy document. This plan is mainly concerned with what presently exists and tries to find new ways to respond to outward physical expansion. Provisions within the plan aim at revitalizing older neighborhoods, managing growth in the suburbs by using an Urban Limit Line that provides direction for future subdivision applications, and promoting high intensity land use. The City of Winnipeg is also promoting renewal of the downtown core. The Act provides for a development plan which covers any area within the municipality and prepares an action area plan. The procedure for the preparation of such plans, zoning by-laws, and subdivision controls are basically the same as the ones identified in the Planning Act.

## Crown Land Planning

### Southern Manitoba

The Province of Manitoba considers it desirable to integrate Crown land planning with private land planning. As a result, the Crown Land Classification Committee, an inter-departmental committee reporting to the Provincial Land Use Committee (PLUC), prepares Crown Land Classification Plans for all planning districts.

These plans, which allocate Crown land to be used, are prepared in consultation with local planning authorities. The impact of private land planning on Crown land is thereby assessed and taken into consideration. Similarly, the impact of Crown land planning on private land can be determined. Crown land plans are often included as appendices to Development Plans and Basic Planning Statements so that plan users can have a full understanding of plans for the local land base. Crown land plans are approved by PLUC and any amendments to Crown land plans are made in consultation with local planning authorities.

### Northern Manitoba

Most of the land in northern Manitoba is not included within areas of local government administration. The Department of Northern Affairs constitutes the local government, but the land is largely administered by the Department of Natural Resources under the Crown Lands Act RSM 1970 c.340. To facilitate administration of Crown land, the Department of Natural Resources has embarked upon a northern planning program.

Northern Crown land plans are essentially overviews. They allocate the land and water base to resource-oriented uses such as industrial development, outdoor recreation, and wildlife production, according to departmental priorities and the department's perception of public and private demands.

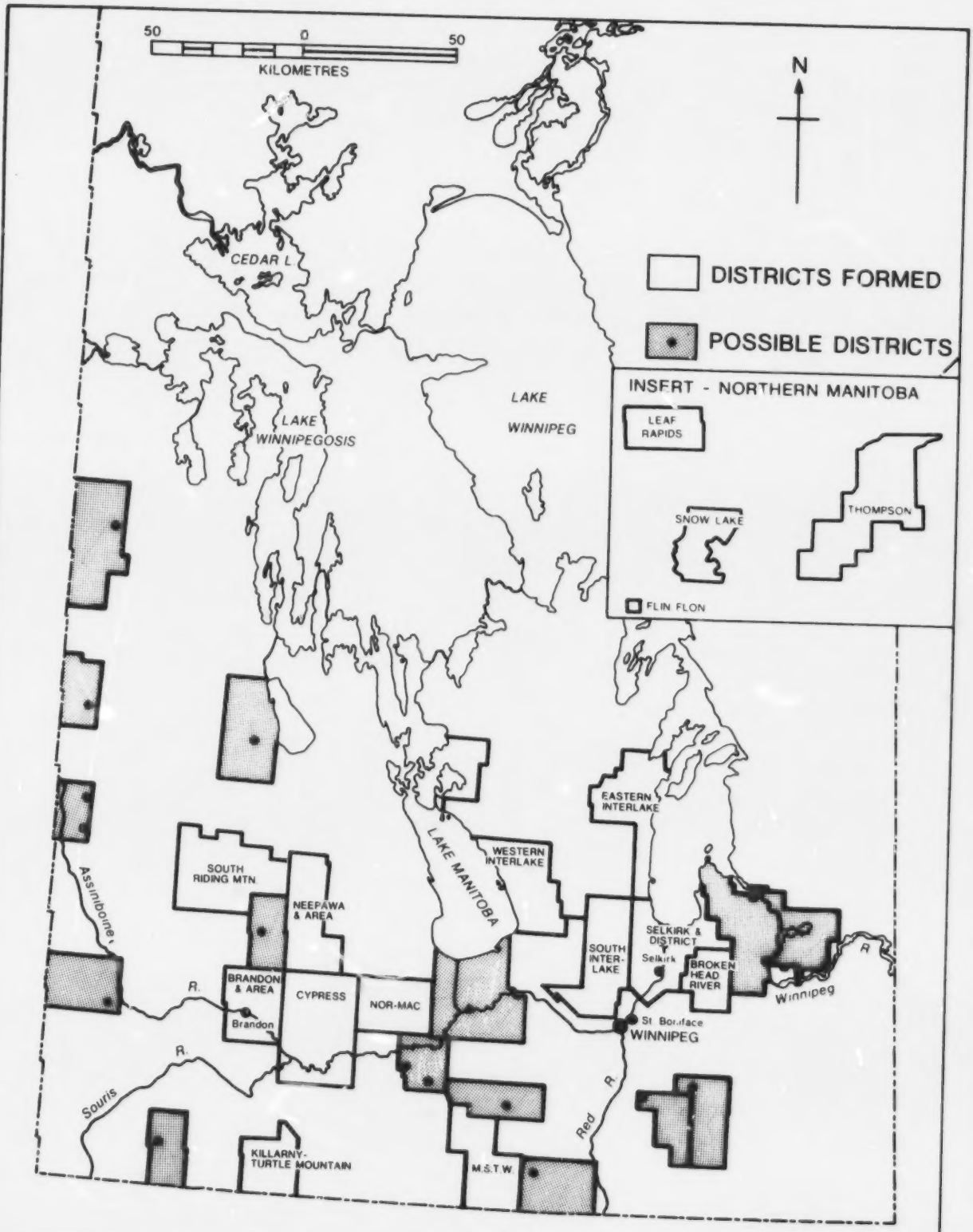
Once approved by the Minister of Natural Resources these plans are presented to the Inter-departmental Planning Board so that the broader governmental perspective may be incorporated into the plan. Such incorporation may be either through development of a government plan which includes natural resources concerns as a component or through revisions to the natural resources plan at the request of other departments. The Provincial Planning Branch (PPB) has a central role in both approaches since it acts as the co-ordinator for inter-departmental review of and input into northern Crown land plans.

### District Planning Experience in Manitoba

There is no traditional form for regional planning in Manitoba, but rather district planning within which municipalities may join together to solve inter-municipal planning problems (see Map 2). In this context and pursuant to the Planning Act, 15 District Planning Boards have been established to facilitate rural/urban planning. So far, 45 of a total of 200 municipalities are integrated within these districts (now totalling 15), while up to 50 municipalities are considering association with other municipalities.

Planning by district unit has proven advantageous for the participating municipalities. Each district usually comprises three or four municipalities. The remaining single-unit municipalities either do not want to plan with neighboring municipalities and relinquish some planning authority, or they are primarily rural in nature and face few planning problems.

Another regional planning experience relates to Winnipeg and the Unicity concept. This concept goes back to the early sixties, where a metropolitan government serving Winnipeg and the surrounding municipalities was put in place. This metro government, constituted under the Metro Act, had responsibility for various services, including compulsory planning. Metro government had to prepare a plan designed to promote the growth and economic development of the metro area and surrounding zones. The first draft plan was prepared in 1963; the Review Commission made some changes and the plan, after a series of revisions, was finally approved by the Minister of Municipal Affairs early in 1968.




MAP 2: PLANNING DISTRICTS IN MANITOBA

Source: Province of Manitoba April 1982 Edition

Because of slowing growth rates, rising energy costs, and increasing costs of providing city services, the new development plan is different from the plan produced in 1968. However, the metro plan served as a good basis for the planning work of the unicity government which succeeded the metro government in 1972. The unicity government formed one government for the City of Winnipeg and surrounding metropolitan area, and brought into place more citizen participation. In effect, community committees and resident advisory groups have been responsible for local budgets and planning. Their role in planning has been and still is an important one: to discuss potential changes and amendments to by-laws or to the plan. The residents and committees also send their recommendations to the unicity council which makes final decisions regarding any changes or amendments.

### Protection of the Built and Natural Environment

Another land control and development mechanism is the special planning area, under the provisions of the Planning Act (s.12.1-12.10). This measure serves to protect natural resource areas for recreational purposes, undertakings of a public nature, or unique provincial resources. The Lieutenant Governor-in-Council may designate as special planning areas any dams, shorelands, agricultural lands, lands adjacent to or surrounding airports, archaelogical structures, wild animal and wild bird sanctuaries, new town sites, and mining areas.

Any proposed development must be submitted to the Minister, who consults with the municipal council or district boards before making a decision. Since the designation for this kind of planning area is a special status, the planning process for such an area is also distinct. An advisory committee consisting of municipal councillors is responsible for making recommendations with regard to development plans, zoning by-laws, and other appropriate control mechanisms. Although the power of this committee is purely of an advisory nature, the Minister must, through the Municipal Board, consult with the councils of affected municipalities.

The content of a plan for a special area is similar to a municipal or district development plan. However, the final plan would be determined by the province. For the time being, no special planning area has been designated in Manitoba. It would seem that the province prefers to hold this instrument in reserve, because a decision to create a special planning area would result in greatly increased provincial responsibilities with regard to planning and remove significant planning authority from the local level.

As for the City of Winnipeg, it can through its planning abilities use measures to protect the environment. Through zoning by-laws, council can preserve historic sites, protect residential areas from air pollution sources, restrict development within high-flood areas,

restrict development in the vicinity of Winnipeg's airport, and also restrict development near waste treatment plants and landfill sites.

### Public Participation

The public is generally given the opportunity to participate in the first stages of preparation of the development plan/basic planning statement. This is done through an informal consultation process. Formal hearings are required between the first and second readings of a plan, and may be required by the minister at the municipal board after the second reading. Similar provisions are later applied to the preparation of a zoning by-law after first reading. Later objections are sent to the district board or to the municipal board.

## III MANITOBA'S ADMINISTRATIVE PLANNING STRUCTURE (Fig. 6)

### Provincial Government

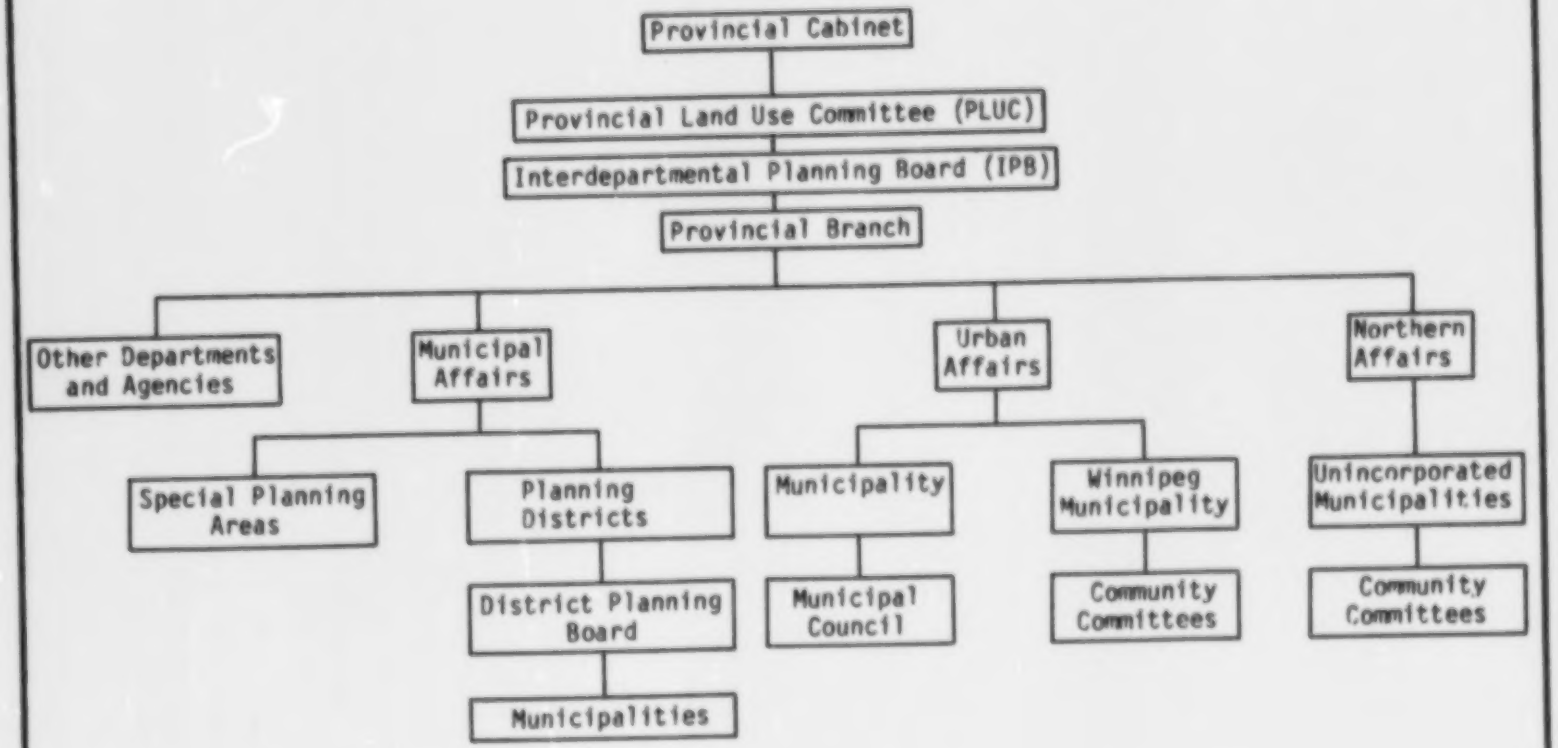
The Provincial Land Use Committee (PLUC) is a committee composed of ministers of several departments dealing with land planning, namely, the Departments of Highways and Transportation, Municipal Affairs, Natural Resources, Energy and Mines, Agriculture and Northern Affairs, Government Services, and Environment. The responsibilities of this Committee are as follows:

- to make recommendations to Cabinet concerning provincial land use policies;
- to coordinate departmental programs and provincial policies regarding land;
- to make recommendations to Cabinet concerning establishment of planning districts;
- to approve of municipal or district development plans;
- to review land use and environmental impacts of government policies and programs and certain non-governmental projects.

Members of the Interdepartmental Planning Board (IPB) are Deputy Ministers of various departments appointed by order-in-council of the Cabinet. Departments and agencies involved in land planning include the Departments of Natural Resources; Municipal Affairs; Northern

FIGURE 6

PLANNING FRAMEWORK IN MANITOBA



Affairs; Highways and Transportation; Agriculture; Energy and Mines; Environment; Manitoba Hydro; Manitoba Telephone System; Manitoba Housing and Renewal Corporation; Land Titles Office; Economic Development and Tourism and Urban Affairs. The Board's responsibilities are as follows:

- co-ordinating the land use policies and development programs of the various agencies involved;
- reviewing land use projects and policies before making recommendations to the PLUC;
- recommending the approval of district and municipal development plans.

Plans submitted to the Department of Municipal Affairs by municipalities are distributed to the various member departments. The departments submit their comments to the IPB. If no objection is filed, the Board submits the plan in estion to the PLUC for formal approval. The plan is officially approved, by the Lieutenant Governor-in-Council or the Minister of Municipal Affairs after recommendations from the PLUC.

There are thus many provincial departments involved in the provincial planning process. The Department of Municipal Affairs has several responsibilities in land planning and development, among which are the following:

- the Minister makes recommendations to the Executive Council with regard to provincial land use policies;
- the Minister approves local development plans;
- approving delimitation of planning districts;
- identifying special planning areas and approving the development for such areas (at this time, no development area has been designated);
- the minister may, at his discretion, cause land use studies to be undertaken and make appropriate recommendations to the Executive Council;
- approving subdivision of land (authority delegated by the Minister).

It is, however, the Lieutenant Governor-in-Council who can by order-in-Council:

- establish provincial land use policies which are subsequently integrated in the planning procedure;
- establish special planning areas and approve plans for those areas;
- establish a planning district.

It is therefore the senior government level which decides the planning area's delimitation; it is also at this level that the boundaries of municipal and special development areas are circumscribed.

The Provincial Planning Branch represents the interests of the Department of Municipal Affairs in land planning. The Branch offers staff support to the IPB and the PLUC by co-ordinating the review of basic planning statements and development plans; it thus serves as liaison between the two committees and various other departments involved in the development process. The Branch also administers the responsibilities spelled out in Part 2 of the Planning Act, pertaining to the Minister's role in reviewing and approving plans, and Part 6, pertaining to subdivision control. The activities of this Branch consist of monitoring the subdivision application process and carrying out the role of subdivision approval authority, as delegated by the Minister.

The Branch thus presents the provincial position in matters of land use planning, local municipal interests being protected by other agencies such as districts and local municipalities with the support of the Municipal Planning Branch. The Municipal Planning Branch also plays an important role as advisor and consultant to the municipalities, both in the preparation of plans on a cost-shared basis and in the giving of day-to-day planning advice. The Municipal Planning Branch prepares most of the plans for municipalities in Manitoba, although municipalities may also prepare their own plans.

Another organization whose role is important in the planning process is the Manitoba Municipal Board. The Municipal Board hears appeals regarding zoning by-laws and subdivision plans, after the decision has been made by the approving authority. The Board also hears annexation requests and makes recommendations thereon to the Minister. Any objection to a development plan may be referred by the Minister to the Board; the Board then holds a public hearing, and the results of that hearing are incorporated in its recommendations to the Minister of Municipal Affairs, who makes a final ruling on the matter.

All member departments and agencies of the IPB and PLUC participate in the planning process. The Environmental Assessment and Review Agency, for instance, may review the environmental impact of government projects in conjunction with the IPB. The departments of Agriculture and Natural Resources, for example, contribute to the Land Use Committee in developing land use policies for both public and private lands. These departments provide technical expertise to municipalities and districts that are preparing development plans and municipal policy statements.

Authority at the intermediary planning level differs from the authority delegated to single municipalities in that the district boards may hear appeals regarding zoning by-laws. A district board may also receive subdivision approval authority from the Department of Municipal Affairs. So far, two district boards have received that authority.

Eventually, approving authority on land subdivision will be transferred completely from the province to the local district board. Applications will be reviewed by the local council and then referred to the district board for a decision normally based on compatibility with the district development plan. Any decision may be appealed to the Municipal Board.

a) District Planning Board

As a general rule, municipalities decide of their own accord to form a district planning area. They send a request to the Minister of Municipal Affairs, who in turn refers it to the Municipal Board which, after a public hearing, submits its recommendations to the Minister. The Minister then accedes to the application of the municipalities by order-in-Council (Planning Act, s.13-14).

The district board members are composed of municipal councillors nominated by local governments. One member may also be designated by the minister, although this is rarely done. The district planning board has authority to:

- enter into special agreements with any public agencies in discharging its duties as specified in the Planning Act;
- promote public participation by whatever means it deems appropriate;
- enter into agreements with government agencies or with persons for the purpose of establishing and maintaining transportation and utility systems and recreational facilities and housing, in order to meet the objectives indentified in the district plan;
- exercise its option to acquire property, build up reserves, land banks, for the purpose of regulating and controlling the development of an urban/rural area.
- may replace the Municipal Board in appeals on zoning by-laws.

Other responsibilities include:

- the preparation of a plan (or basic planning statement);
- the adoption, administration and enforcement of such plans;
- administration of zoning by-laws, building by-laws, and by-laws relating to standards of maintenance and occupancy of buildings of any municipality within the district.

Any objection to a zoning by-law to which a member municipality has given a second reading is heard by the district board. The district board may appoint a development officer who represents the member municipalities in issuing development permits and attending to questions of minor variations and objections to municipal zoning by-laws. Member municipalities may also approve of subdivision, when so authorized by the Minister.

b) Municipal council of a single municipality

The Planning Act contains provisions whereby the local council may:

- identify its own development objectives pertaining to its own resources;
- prepare a development plan;
- prepare a zoning by-law plan which reflects the policies and orientations governing development as indicated in the development plan;
- enforce the plan and by-laws and make any amendment and changes thereto as needed;
- identify and regulate land use concerns in the area within its jurisdiction;
- review subdivision applications prior to the approving authority, and if the municipality fails to approve a subdivision, the subdivision is automatically rejected by the approving authority.

c) Winnipeg area

The council of the Winnipeg area is responsible for preparing the Greater Winnipeg development plan and community plans made for any part of a municipality that is within the additional zone established in the Greater Winnipeg Development plan.

The local council can have authority regarding zoning by-laws and development controls. It can also require a report on the environmental impact of a proposed public work and pass a by-law regarding building standards. The council also has some authority over housing and social development in the planning area and can authorize demolition and the establishment of neighborhood improvement areas.

## I LAND-USE CONCERNS AND TRENDS

Studies in the Province of New Brunswick show that the current trend regarding the choice of a residential site is toward rural areas outside urban centres. The trend is partly related to the fact that the tax assessment on a property located in a rural area is lower than in an urban area. This phenomenon of urbanization of rural areas has been the cause of certain problems regarding land development. Outskirts of cities continue to spread, good agricultural and forest land is lost to growing residential subdivisions, and infrastructures to service the needs of a new community are expensive and impose additional costs on rural communities.

In addition to urban development in rural settings, New Brunswick is still facing problems with parcelling of land, abandoned land, and property titles. In order to limit the impact of built-up urban and rural areas on land development and the resources contained therein, New Brunswick has had to amend the Planning Act whose origins date back to 1912.[1] Among the principles introduced in the Act, several have remained in the provisions of the Community Planning Act of 1973. The principle that planning should not be limited by artificial boundaries such as the ones set up for a municipality has been enunciated. Another concept is that a zoning plan cannot be established if a municipal plan or basic planning statement does not exist. Municipal councils are ultimately responsible for planning land use in their areas and are relatively free to plan land use as they see fit. They must, however, follow the regulations set out in the Act.

The land planning and development framework in New Brunswick has been in transition since 1973. The provincial government mandated W. Cooper, an attorney, to study the Community Planning Act R.S.N.B. 1973 c.H-12. It appears that certain provisions of the Community Planning Act have not been put into effect and that the area of land-use planning is becoming increasingly complex. Cooper has recommended greater autonomy within the planning process and greater public consultation. These recommendations refer to provisions in the Act that until now have not been fully implemented and other provisions considered beneficial to the planning process.

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[1] An Act to Town Planning. S.N.B. 1912 c. 19.

One recommendation was that regional planning be abolished. Although the provision for preparation of regional plans is still in effect, the diversity they encompass limits the resources available for planning. Indeed, these plans include highly organized cities and unincorporated and unpopulated areas. Future effort should be directed toward the concept of planning by district, which will result in more uniform planning and easier cooperation between jurisdictions. Cooper suggests that planning by district become compulstory for all towns and surrounding areas.

Mr. Cooper also proposed the abolition of statutory planning advisory committees where the committees would lose their legal status under the provincial Act. Other more general recommendations deal with the need to identify planning priorities at the provincial government level, granting greater authority for local governments, and suggesting that subdivision of a parcel of land be authorized without a survey plan.[2] It could be also that in the near future, New Brunswick will have an overall land-use policy that will help to integrate better the planning of private and Crown lands. In effect, the Land Use Policy Task Force has been working since fall 1981 on resolving land-use conflicts by establishing a comprehensive land-use policy. Many concerns and issues regarding land use have been identified by the Task Forced in its report and the draft of the land-use policy is presented along with recommendation for its implementation.[3]

## II LAND PLANNING IN NEW BRUNSWICK

The principal Act which defines municipal planning is the Community Planning Act (1973). Under this Act, the provincial Cabinet divided the province into seven planning regions. Six of the planning regions are centred around six cities; Newcastle-Chatham is an urbanized area which constitutes the seventh planning region. Each region contains a certain number of municipalities and unincorporated areas that are combined to form a planning district. Each planning region must prepare a plan setting out the provincial policies regarding land use in each particular district.

At the district level, the Minister of Municipal Affairs, through the Provincial Planning Branch and in co-operation with the District Planning Commission, is responsible for preparing the regional development plan, which is then adopted by the provincial Cabinet. presented along with recommendation for its implementation.

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2 Cooper W.E. and Jellinek T.J. "The Evolution of Community Planning in New Brunswick. 1912-1980." In University of New Brunswick Law Journal (cases, comments, notes). pp. 173-182.

3 Land Use Policy Task Force 1982. Land Use Policy: A Positive Approach. A Proposed Land Use Policy and Report. Prepared for Cabinet Committee on Economic Development. Province of New Brunswick.

The regional plan is the master plan which sets out the planning policies for a region (see Figure 7).

Municipalities within the limits of a district jurisdiction, as well as those located outside the district, are not obliged to prepare municipal plans unless ordered to do so by the Minister of Municipal Affairs. The content of this type of plan deals with such considerations as pollution, land use, transportation, municipal services, and capital budgets (an indicator for the cost of development and planning of projects). Approximately 90-95% of the municipalities have municipal plans or basic planning statements.

A basic planning statement is a statement of the municipality's future planning orientation and may also include an overview of the objectives to be attained through zoning and subdivision by-laws. The procedure for preparation of the statement is described in Figure 8.

Communities that do not have the status of municipal corporations can acquire an area plan which is similar in content to a municipal plan, or a basic planning statement. These plans are prepared by the Provincial Planning Branch.

The Community Planning Act identifies other instruments related to municipal land use planning, such as a development scheme which is intended to carry out the terms and conditions of a development project presented in a municipal plan. The area plan tries to identify the development concept for a specific area of land, or establish a schedule for development of a large land area. This plan also serves to prepare detailed regulations that are particular to a specific area (see Figure 9).

Municipal by-laws enable municipalities (within a district or outside a district) to control land use, the rate of development in their jurisdiction and the public services to be provided. By-laws must comply with the community plan or the basic planning statement. Zoning by-laws control population, density, sand and gravel extraction sites, construction standards on land, and land use.

Subdivision and related regulations are the concrete form of municipal by-laws. Subdivision controls the acquisition of land parcels and is a tool controlled by the province through the registry office. All subdivision plans submitted to the municipality must be circulated through various departments. Regulations, which the municipalities might adopt, must be approved by the province before coming into effect. Areas covered by subdivision regulations are identified in Figure 10.

FIGURE 7

REGIONAL PLAN APPROVAL PROCESS IN NEW BRUNSWICK

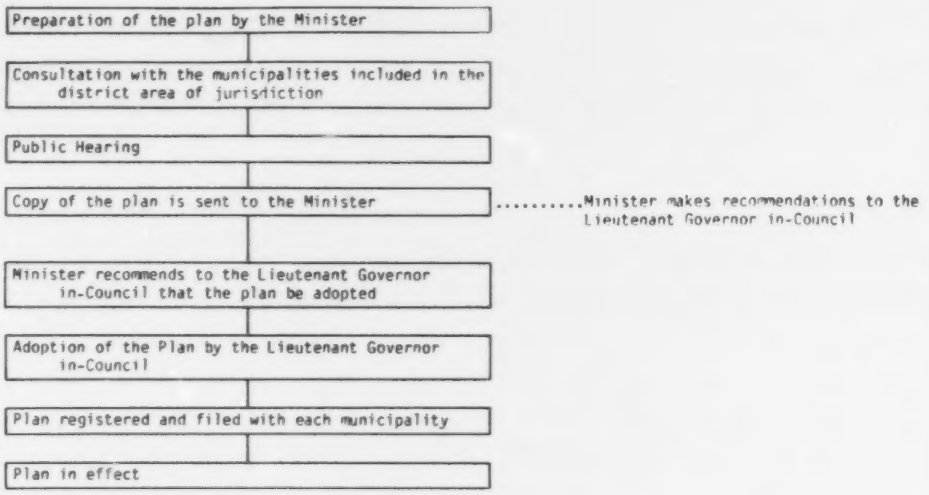

Preparation of the plan by the Minister
Consultation with the municipalities included in the district area of jurisdiction
Public Hearing
Copy of the plan is sent to the Minister
.....Minister makes recommendations to the Lieutenant Governor in-Council
Minister recommends to the Lieutenant Governor in-Council that the plan be adopted
Adoption of the Plan by the Lieutenant Governor in-Council
Plan registered and filed with each municipality
Plan in effect

FIGURE 8

MUNICIPAL PLAN/BASIC PLANNING STATEMENT APPROVAL PROCESS IN NEW BRUNSWICK

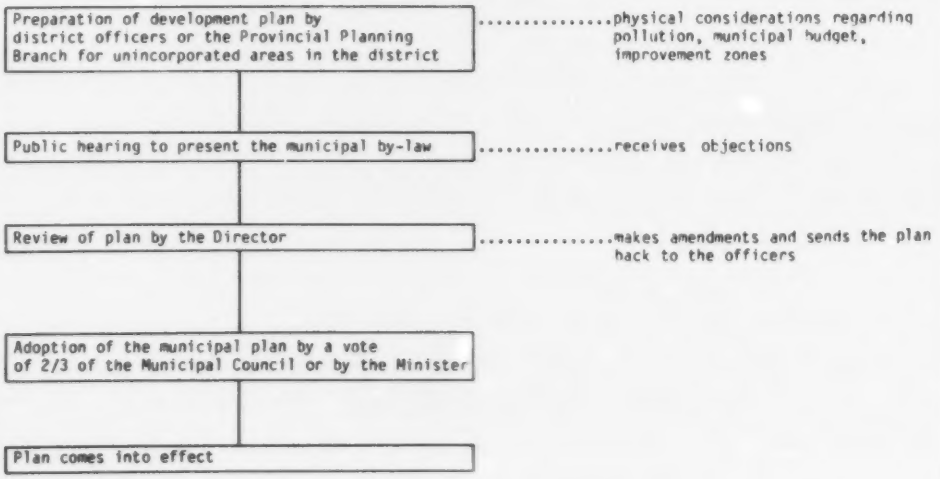

Preparation of development plan by district officers or the Provincial Planning Branch for unincorporated areas in the district
.....physical considerations regarding pollution, municipal budget, improvement zones
Public hearing to present the municipal by-law
.....receives objections
Review of plan by the Director
.....makes amendments and sends the plan back to the officers
Adoption of the municipal plan by a vote of 2/3 of the Municipal Council or by the Minister
Plan comes into effect

FIGURE 9

AREA PLAN APPROVAL PROCESS IN NEW BRUNSWICK

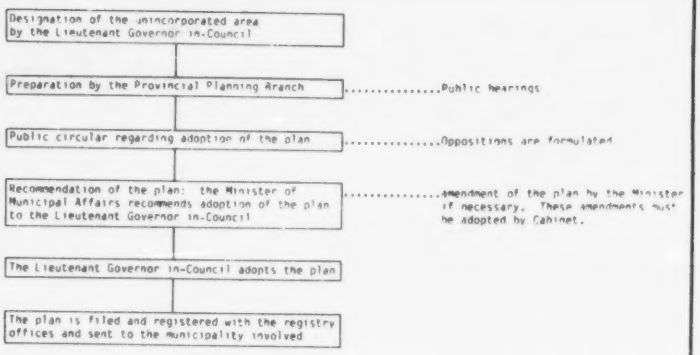

Designation of the unincorporated area by the Lieutenant Governor in-Council
Preparation by the Provincial Planning Branch
Public hearings
Public circular regarding adoption of the plan
Oppositions are formulated
Recommendation of the plan: the Minister of Municipal Affairs recommends adoption of the plan to the Lieutenant Governor in-Council
Amendment of the plan by the Minister if necessary. These amendments must be adopted by Cabinet.
The Lieutenant Governor in-Council adopts the plan
The plan is filed and registered with the registry offices and sent to the municipality involved

FIGURE 10

REGIONS WITH SUBDIVISION REGULATIONS

| Development Regions | Provincial Subdivision Regulation 81-126 |
|---|---|
| Campbelton-Dalhousie Restigouche | yes |
| Edmunston | no |
| Fredericton | yes |
| St-John | part of the region |
| Newcastle-Chatham Miramichi | yes |
| Bathurst-Belledune | yes |
| Acadian Peninsula | yes |
| Moncton Restigouche Bay Greater Moncton Beaubassin | yes |

Nota: Other areas not covered by this specific regulation are subject to provincial subdivision regulation 20-159.

Source: Provincial Building and Subdivision Regulations - Community Planning Branch - Dept. of Municipal Affairs. Province of New Brunswick Feb 1978, revised in 1981.

Other legislation like those governing hydro-electric corridors and highways affects the land development process. Proposals for corridors and highways go through the community planning office, which ensures that the objectives set out by the provincial agencies comply with the objectives set out in the development plan. All rezoning applications for unincorporated areas, which come from one of these agencies, must be justified to the Provincial Planning Branch. In the case of municipalities, these applications for rezoning must be sent to the municipal council.

### Regional Planning Experience

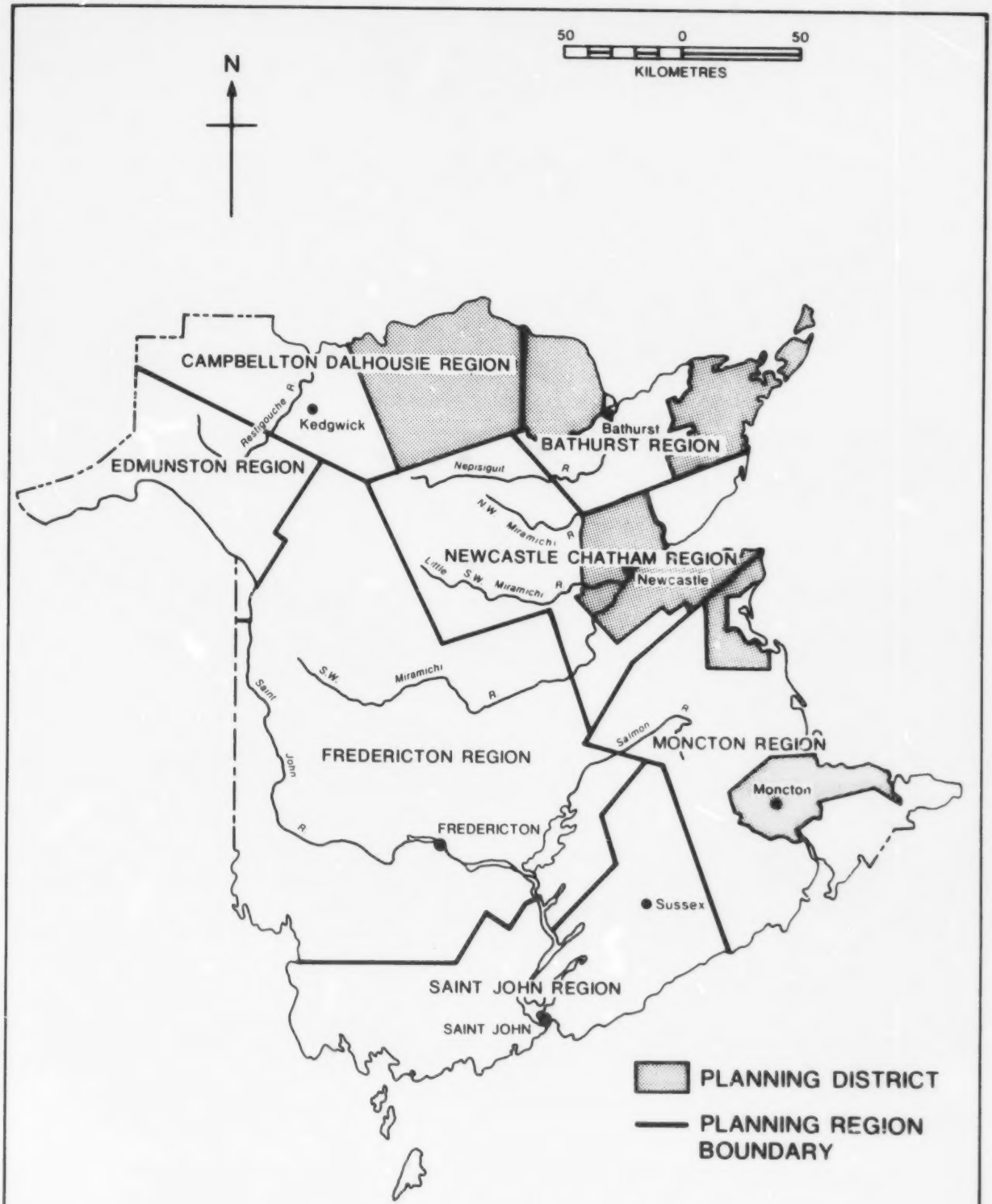
New Brunswick has operated with regional planning for some time. Since 1912, the planning framework has been constantly changing, and New Brunswick has had a new land-use planning structure since the sixties.

Seven planning regions have been designated. Within these regions, districts constituting expected centres of expansion have been identified (see Map 3). By means of this planning structure, New Brunswick is trying to establish an appropriate relationship between the regions and the urban centres in the province. The Community Planning Act states its objective is "to co-ordinate planning between the region and the province as a whole and among the various jurisdictions in the region." In this regard, the province defines its role as being that of a supervisor of municipal land planning through the regional planning structure.

### Protection of Built and Natural Environment

Two Acts in New Brunswick protect the environment and buildings: the Historic Sites Protection Act, R.S.N.B. 1973 c. H-6, and the Community Planning Act, R.S.N.B. 1973 c. H-12. The first Act, administered by the Historic Resources Branch, is responsible for control of development and construction in designated "protection zones", in which a permit is required for all construction and development. The Community Planning Act, administered by the Department of Municipal Affairs, sets out the terms and conditions regarding land development.

Municipal plans and regulations implement development and control development of structures. A municipality does not have to prepare a municipal plan unless the Minister of Municipal Affairs orders it to do so. The municipality can then take into account the buildings to be preserved and identify sites of historic interest and conservation zones. Through these two Acts, a municipality therefore has certain authority regarding protection of the structural environment.




MAP 3: PLANNING REGIONS AND PLANNING DISTRICTS IN NEW BRUNSWICK

Source: Community planning Branch, Department of Municipal Affairs. Province of New Brunswick
Rev. Feb. 1982

The municipality has recourse to two methods of controlling demolition and alteration of a specific property:

- by having the Preservation Review Board issue a development certificate;
- by preparing a municipal plan to control development or a basic planning statement adopted with consent from the Minister.

### Public Participation

The province allows the integration of special interest groups and individuals into the decision-making process within the planning procedure. Similarly, most of the community planning by-laws (except for regulations regarding subdivision, construction regulations, and regulations from the advisory committee) must be presented to the public before they are adopted by council.

## III NEW BRUNSWICK ADMINISTRATIVE PLANNING STRUCTURE

### Provincial Government

Several agencies play an important role at various levels in the provincial government. The Community Planning Act provides the institutional framework for the development of private lands. Therefore, the Department of Municipal Affairs, through the Community Planning Service, acts as development co-ordinator for a region by means of the regional plan that it prepares (see Figure 11).

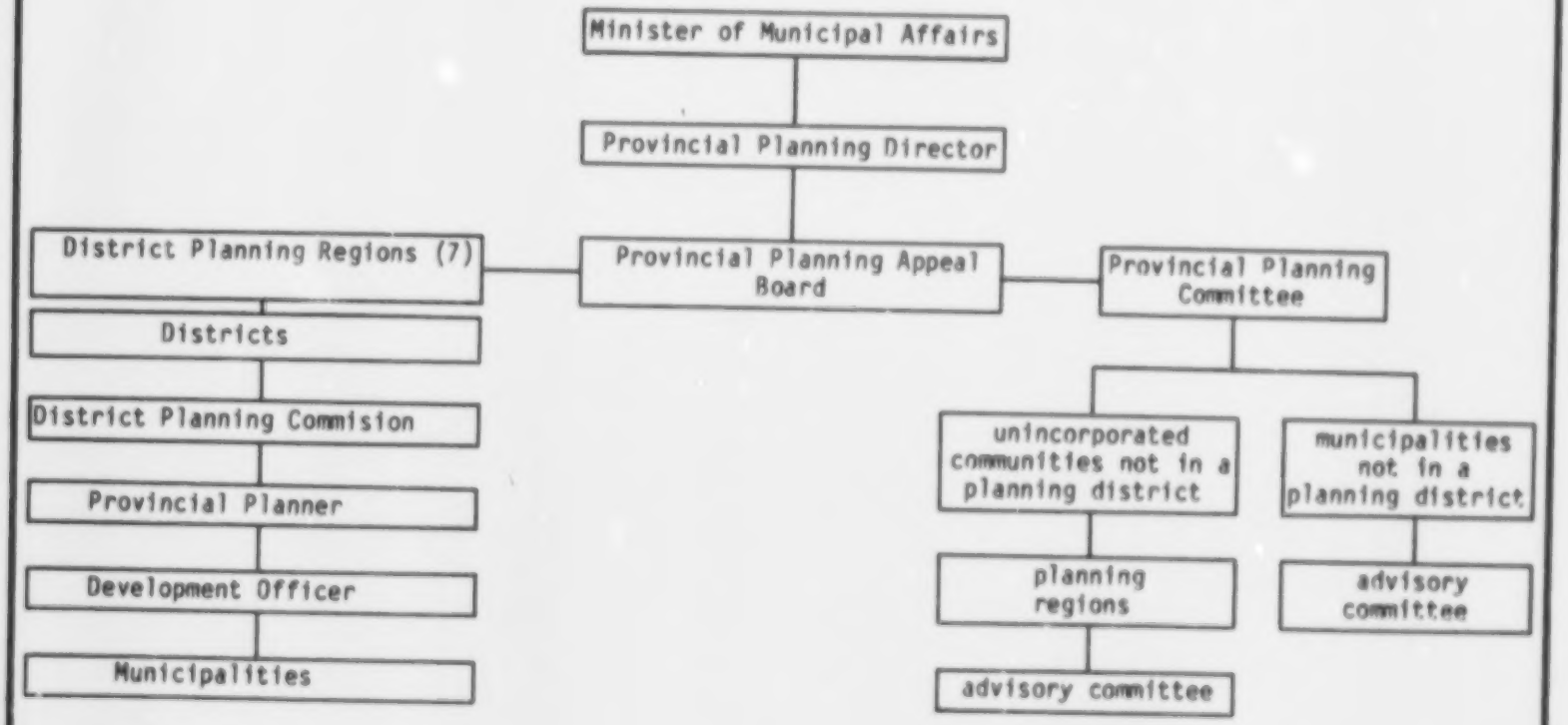
The Community Planning Act sets up several planning agencies:

- a District Planning Commission;
- an advisory committee for municipalities not in a planning district;
- a provincial Planning Committee.

Once a district has been established for regional planning purposes, a district planning commission is formed. This commission advises municipal councillors and the Minister of Municipal Affairs regarding unincorporated communities in the district.

FIGURE 11

PLANNING FRAMEWORK IN NEW BRUNSWICK*




*Source: V. Cranmer. 1975. Land Use Programs in Canada, New Brunswick, p. 9.

This commission can also settle disputes regarding questions of non-conforming uses and variance by-laws and issue conditions regarding the approval of subdivision plans. In this sense, its duties are quasi-judicial. For example, if the commission thinks that the proposed location of a building or structure is marshy, subject to flooding, has an excessively steep slope, or is otherwise unsuitable for the proposed purpose by virtue of the nature of the soil or topography, it can prohibit the construction or erection of the building.

The advisory committee has a legal role regarding municipalities not located in a planning district and has the same responsibilities as the district planning commission. It can thus allow certain land uses under special conditions (a.35), since it can approve variances in zoning (a.34.5) and subdivisions (a.46), and it can recommend the location of public utilities to the municipal council. In this case, the municipal council does not have the right of veto. The committee must advise municipal council in all matters of planning and, if necessary, prohibit any development that is located on marshy ground, or in an area that is subject to flooding; it has the same responsibilities as the district planning commission.

Working with the Advisory Committee or the District Planning Commission is the administration officer for zoning and subdivision regulations. The officer issues development and subdivision permits which ensure that the subdivision plans comply with the community planning regulations. The officer also approves or rejects subdivision and development plans, based on the criterion of compliance with the provisions of the Community Planning Act.

The Provincial Appeal Board consists of fifteen people. Each of the seven planning regions is represented by two members. The President and Vice-president of the Board are barristers at the Bar. All appeals of zoning, subdivision plans, development permits, and permits for non-conforming uses are received by the Board which is in charge of settling the disputes. The appeal in question must be based on an incorrect application of a regulation.

### Local Governments

It is clear that the Community Planning Act gives several responsibilities for planning to local governments, largely because there is no intermediate level between the provincial government and the local government. The local government, through the municipal council, has important powers at the legislative level:

- setting up an advisory committee in a municipality not located in a planning district;
- adopting a municipal plan by-law;
- adopting a basic planning statement by-law;
- adopting a development scheme by-law;
- adopting, amending, repealing zoning, subdivision, and other municipal by-laws.

At present, New Brunswick tends to plan land development in terms of community factors and not strictly in terms of application of controls over land use. Emphasis has also been placed on encouraging municipalities and communities not located in the planning districts, as well as all unincorporated communities, to prepare a basic planning statement or a municipal plan before designating zones for certain uses in their area. In this way, communities are better able to control development of their land.

## I LAND-USE CONCERNS AND TRENDS

The following issues are currently of special concern in relation to land-use planning:

### Preservation of Agricultural Land

Newfoundland has little agricultural land, representing only about 3% of the province's total area.[1] Naturally the protection of this resource and its proper management are of great concern to the province. The agricultural land is threatened by pressure for its development for other uses for a number of reasons,[2] among which are the following:

- small local market, competition from outside producers, labour costs and other requirements make it difficult to attract new farmers and keep existing ones;
- physical restrictions (climate, soil, etc.);[3]
- some of the best agricultural land, especially in the St. John's urban region, is located where urban development is feasible and attractive;
- speculation in land, as a result of anticipated development related to offshore oil and gas resources, causes land to be held and not put to productive use.

### Control over Fringe Development

The spread of urban development and influence in the region around St. John's has brought problems similar to other urban regions in the country. These problems include land speculation, use of farmland for residental development, peripheral shopping centres,

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1 Shefman, A. 1979. Urban-Fringe in the Atlantic Region, I.C.U.R.R. (Toronto, Ontario), p. 4.
2 Doyle, Pat. 1982. "Too Much Politicking in Farm Land Management, says Planner," St. John's Evening Telegram (Sept. 14), p. 3.
3 Government of Newfoundland. 1980. Managing our Resources: A Development Plan for Newfoundland and Labrador, 1980-1985.

unserviced subdivisions, a need for expensive extension of trunk water and sewer mains, and scattering of individual residences in rural areas.

The Department of Municipal Affairs has proposed to carry out a study of the economics of fringe development, particularly in relation to its effect on financing and maintenance of municipal services.

### Development Related to Offshore Oil and Gas

It is anticipated that there will be considerable speculation in the development of land related to exploration and development of offshore oil and gas resources, such as service bases, construction yards, tank farms, pipeline terminals, and petro-chemical industries. The Urban and Rural Planning Act has recently been amended to provide more powers for control of this kind of development. A number of locations throughout the province have been designated as areas where such development can be directed.

### Land Registration

The province does not require the registration of land ownership or of land transactions. Since it is difficult to determine who owns a particular parcel of land, there is little to discourage acquisition of various parcels and subsequent speculation.

### Resource Lands

There is an increasing awareness of the potential of agricultural, forest, mineral, scenic, and other resources. Conflicts between such resources, and between them and municipal development, are resolved by consultations with the various provincial departments responsible and the local municipal council. Problems occasionally arise between local councils and the provincial resource departments because of their differing priorities over the appropriate use of rural lands within municipal boundaries.

## II PLANNING PROCESS IN NEWFOUNDLAND

The principal piece of legislation dealing with planning and the development of land is the Urban and Rural Planning Act RSN 1970 c. 387, as subsequently amended. Other legislation

with considerable effect includes the Municipalities Act SN 1979 c. 33, the Environment Act RSN 1970 c. 71, the Crown Lands Act and the Development Areas Lands Act RSN 1970 c. 95.

The Urban and Rural Planning Act provides for the preparation and approval of Municipal Plans where the local council decides it wishes to prepare a plan, and provides the legislative authority for the local council to make land use, zoning, and subdivision regulations. The Act also provides for the preparation and implementation of Joint Municipal Plans, Regional Plans, Local Area Plans, Development Schemes, and Protected Area Plans, Interim Development Orders as well as for the making of general planning regulations for expropriation of land for the enforcement of planning controls.

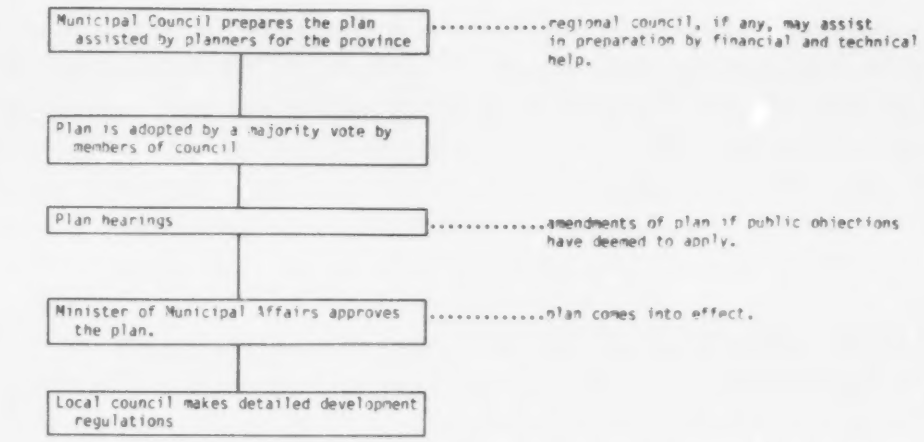
Municipal Plans are prepared by or on behalf of a local council and may relate to a municipal planning area larger than the municipality. They do not come into effect unless approved by the Minister of Municipal Affairs after a public hearing. Following approval, the local council makes detailed regulations to enable control of development in accordance with the plan (see Figure 12).

Joint Municipal Plans may be prepared by or for several municipalities; Regional Plans are prepared for areas defined as planning regions by the Minister of Municipal Affairs (Figure 13). When approved, Local Area Plans must conform with Regional Plans (if any). Local Area Plans can be prepared where no municipality exists or where the local council does not wish to prepare its own plan, but where it is considered that some planning is needed. Protected Area Plans can be prepared for any area of natural beauty or amenity. Development schemes may be prepared to provide detailed planning of smaller areas covered by a municipal plan. Regional Plans, Local Area Plans and Protected Area Plans are usually prepared by staff of the Provincial Planning Office in the Department of Municipal Affairs or by consultants. In either case they are prepared on behalf of the Provincial Planning Board.

Of the approximately 300 municipalities in the Province, about 100 have begun preparation of Municipal Plans and about 30 have been approved (see Table 7). A number of regional plans have been prepared, but only one (for the St. John's urban region) has been approved. Two Protected Area Plans and a small number of Local Area Plans have been prepared. The Joint Municipal Plan process has been little used. Development along the highways in the Province has been covered by the Protected Road Zoning Regulations 1961, administered by the Department of Municipal Affairs. The regulations provide for control of development alongside roads. Interim development orders apply to a Development Control area in areas where specific regulations on the design, appearance, maintenance, and other developments are needed.

FIGURE 12

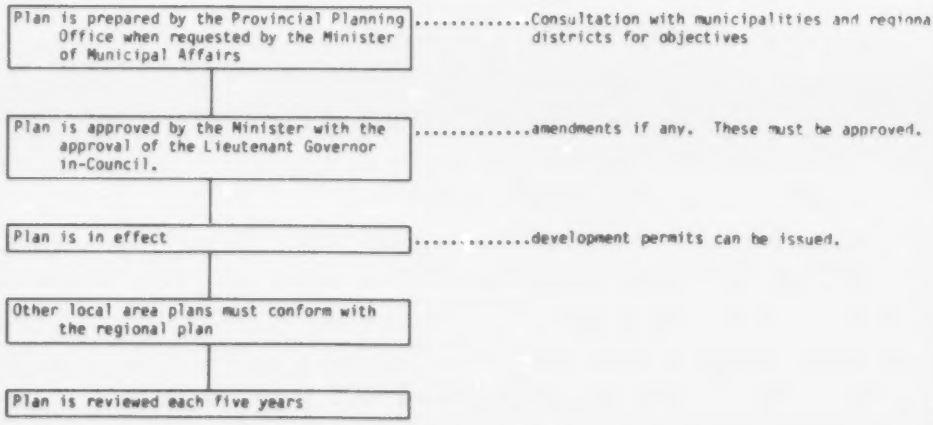
MUNICIPAL DEVELOPMENT PLAN APPROVAL PROCESS IN NEWFOUNDLAND


Municipal Council prepares the plan assisted by planners for the province
.....regional council, if any, may assist in preparation by financial and technical help.
Plan is adopted by a majority vote by members of council
Plan hearings
.....amendments of plan if public objections have deemed to apply.
Minister of Municipal Affairs approves the plan.
.....plan comes into effect.
Local council makes detailed development regulations

Note: This procedure also applies to the preparation of Joint Municipal Plan, however, the plan is prepared by joint municipal councils once the joint planning area has been defined by the Minister of Municipal Affairs.

FIGURE 13

REGIONAL PLANS PREPARATION AND APPROVAL PROCESS IN NEWFOUNDLAND


Plan is prepared by the Provincial Planning Office when requested by the Minister of Municipal Affairs
.....Consultation with municipalities and regional districts for objectives
Plan is approved by the Minister with the approval of the Lieutenant Governor in-Council.
.....amendments if any. These must be approved.
Plan is in effect
.....development permits can be issued.
Other local area plans must conform with the regional plan
Plan is reviewed each five years

NOTE: Only one regional plan has been approved: St. John's urban regional plan

TABLE 7
STATUS OF PLANNING IN NEWFOUNDLAND

| Groups | No plans[1] | Interim Development Orders | Draft plan | Plan adopted | Plan approval | Land use zoning | Occupation Maintenance[2] |
|---|---|---|---|---|---|---|---|
| EAST (198 municipalities) | 99 | 76 | 29 | 32 | 26 | 11 | 6 |
| % | 50 | 38 | 14 | 16 | 13 | 5 | 3 |
| WEST (104 municipalities) | 64 | 39 | 2 | 22 | 19 | 7 | 6 |
| % | 61 | 37 | 2 | 21 | 18 | 6.7 | 5.7 |
| Total Municipalities | | | | | | | |
| 302 | 163 | 115 | 31 | 54 | 45 | 18 | 12 |
| % | 53.9 | 38.1 | 10.2 | 17.8 | 14.9 | 5.9 | 3.9 |

1. The "no plan" category may include areas where mapping is done for the territory. It can also include municipalities who have passed a resolution to plan. In some cases, the planning area may have been defined.
2. Building and maintenance regulations.

Source: Government of Newfoundland and Labrador. 1982. Department of Municipal Affairs. Provincial Planning office Measures in effect.

With regard to other legislation, the Municipalities Act is the principal statute under which municipalities operate. Its provisions regarding establishment of boundaries, control of building, control of watersheds, taxation, and provision of services are the most relevant to land-use planning. The Environment Act provides for detailed environmental assessment and review of actions named in the Act as "undertakings" which are likely to include major land use and development projects. Detailed regulations to implement this legislation have not yet been finalized. Under the Crown Lands Act, the Department of Forest Resources and Lands issues grants and leases of Crown Land and co-ordinates this activity with the planning and management of resource lands. The Development Areas (Lands) Act enables the designation of specific areas in which government exercises special controls over speculation and land use. Agricultural Development Areas have been designated under the control of the Department of Rural, Agricultural and Northern Development, and a number of sites related to offshore oil and gas exploration and development have also been designated under the control of the Minister of Development.

## Regional Planning Experience

Newfoundland's main regional planning experience has been in the St. John's urban region, where the relative complexity of the situation demands separate treatment. The area comprising the N.E. Avalon Peninsula has been defined as a region under the Urban and Rural Planning Act. A comprehensive regional study was carried out in the early 1970s and a Regional Plan was approved in 1976. Although other regional plans have been prepared, only the St. John's Urban Region Regional Plan has been approved and steps towards implementation have been made. There is, however, no regional authority and implementation of the regional plan is the responsibility of the approximately 17 municipalities which comprise the region. Updating and preparation of amendments to the Regional Plan are carried out by the staff of the Provincial Planning Office in the Department of Municipal Affairs. The St. John's Metropolitan Area Board is one of the municipalities, but it does not cover a single community or group of communities, only that part of the region which is not in one of the other municipalities. The St. John's Metropolitan Area Board provides land use and building controls for the undeveloped parts of the region within its jurisdiction, and it provides the same controls and some urban services to such developed areas on the fringe of the region as the City of St. John's, the Town of Mount Pearl, and the Town of Wedgewood Park. The Board acts in a limited regional capacity, since it is responsible for the operation and maintenance of a regional water supply system that serves the urban core and other adjacent parts of the region.

## III NEWFOUNDLAND'S ADMINISTRATIVE STRUCTURE FOR PLANNING

### Provincial Government

The Cabinet's main role is to establish government policy in a number of matters relating to land use and development. In addition, Cabinet approves the imposition of interim development controls in municipalities while a municipal plan is in preparation, approves regional plans, and can approve the Minister's making such regulations as are considered desirable "for carrying out the spirit, intent and meaning of the Act." In addition, there are special reserve powers for Cabinet to designate specific classes of development requiring a development certificate and to designate locations or classes of development which may be subject to-call-in of applications for development permits by the Minister.

The Department of Municipal Affairs, being responsible for overseeing and fostering the development of local government, has major responsibility for implementing the Urban and Rural Planning Act and the Municipalities Act.

The Minister approves Municipal and other official plans and building and planning regulations made by municipalities. The Development Control Division of the Department is responsible for administration of development controls along major highways and in particular areas where there is no local council to control development. The Minister also appoints appeal board members and has to approve expropriations and purchase notices. (The latter may be served by a landowner denied permission to carry out development who claims his land is thereby not reasonably capable of any beneficial use.) The landowner could be granted a compensation as if the land was expropriated under the Act.

Within the Department of Municipal Affairs, the Provincial Planning Office advises the Minister and other Departments on municipal planning matters. Staff of the office work closely with municipalities in providing advice on planning and the preparation of municipal plans and plan amendments. Staff of other departments act along with the Provincial Planning Office and the local councils in administering their own controls or in providing information and commenting. The principal departments involved are shown on Table 8.

TABLE 8

PROVINCIAL DEPARTMENTS INVOLVED IN LAND PLANNING IN NEWFOUNDLAND

| DEPARTMENTS | LAND PLANNING RESPONSIBILITIES |
|---|---|
| Department of Rural, Agriculture and Northern Development | Agriculture development areas |
| Department of Forest Resources and Lands | Crown Lands |
| Department of Mines and Energy | Mineral Resources<br>Quarry Permits |
| Department of Health | Control of wells and septic tanks |
| Department of Environment | Approval of intake and discharge of water to streams.<br>Watersheds<br>Environmental assessment |
| Department of Transportation and Communications | Access to provincial highways |

Local Governments

All local councils have control of building and many other matters. The Councils may resolve to prepare a plan, and if they do so, they can be given the authority to impose on Interim Development Order to control the use of land and buildings during the planning process under the Urban and Rural Planning Act. After the plan is approved, the councils prepare and adopt detailed zoning regulations and development schemes and can expropriate land to enable implementation of the plan.

## I LAND-USE CONCERNS AND TRENDS

The following is an itemized list of those issues of concern to land planning in Nova Scotia. This concern has been manifested through either the initiation of government studies or passing of provincial legislation.

- Watershed Management--The provision of good quality domestic water has been hampered in many areas by a lack of effective control over watershed lands.

- Land Development Standards--The process by which land is subdivided varies across the province. In some areas, approvals for land division and/or development are required from the municipal government and from several provincial agencies, such as Transportation, Health, Municipal Affairs, and Environment. Where several approvals are required, time delays have been experienced. In areas where fewer approvals are involved, development problems and high costs of remedial action are often encountered.

- Estuarine Fisheries--Commercial species, especially oysters, mussels, and clams, depend on good quality near-shore waters for continued safe growth.

- Agriculture--Land-use conflicts are often generated around urban growth and the desire to maintain and enhance agricultural lands as a valuable resource base.

- Coastal Resource Management--With about 11,263 km of salt water coast in Nova Scotia, problems arising from coastal use and development are increasing in number and complexity.

- Parks and Trail System--More attention should be focused on the development of Provincial Parks and related outdoor recreational use and activities.

- Redeveloping areas both in physical and economic terms.

- Wildlife Habitats--The protection and maintenance of terrestrial and aquatic areas is essential for the survival and reproduction of certain vertebrate species, excluding fish.

- Crown Lands in Halifax-Dartmouth--The present status and future disposition of all crown-owned lands within 40.2 km of the cities of Halifax and Dartmouth.

- Aggregates--There are a variety of problems associated with the extraction of sand and gravel from quarries, beaches, and rivers.

- Special Places--Those areas of the province that have special value, such as archaeological and historic sites and sites with ecological, scientific, and cultural significance, should be protected and preserved for the benefit of all Nova Scotians.

- Offshore Impacts--The onshore effects of offshore oil and gas development exclusive of manpower training and industrial benefits.

Apart from and including many of the above issues, the Planning Act Review Committee (PARC), in their final report of November 1981, suggested the province should also develop land-use policy in the following general areas:

- protection and maintenance of forest and mineral resources as well as inland water bodies;

- the management of energy resources and related activities;

- provision of housing and land for residential development;

- industrial, commercial, and institutional development and identification of priority areas for their location;

- the development and location of major utility, communication, and transportation systems;

- the development of educational, cultural, recreational, and other social facilities.

## II PLANNING PROCESS IN NOVA SCOTIA

The legislation dealing with land planning in Nova Scotia is the Planning Act S.N.S. 1969 c.16. Any municipality in the province (city, town, or rural municipality) which wishes to adopt a plan and zoning by-law or have subdivision regulations prescribed falls under the Planning Act.

The Act envisaged a "nested" system of regional development plans adopted by the provincial cabinet and providing the provincial policy framework for municipal development plans prepared by the municipalities. A municipal development plan shall not be in conflict with

a regional development plan, but beyond that the principle of municipal autonomy prevails and legality and internal consistency are the main requirements for Ministerial approval.

In addition to the municipal development plan, the other basic planning instruments available to municipal councils are the zoning by-law, subdivision regulations, and the subdivision by-law. The municipal development plan includes policy statements on municipal goals and objectives, the use and reservation of land, the provision of services, the programming of municipal investment, and the coordination of public programmes. The plan may also deal with "any other matter related to the physical, social or economic development of the municipality."

The procedure for plan adoption is outlined in Figure 14. Any plan must be reviewed within five years of adoption. As of the beginning of 1983, all three cities had municipal development plans in effect, along with 30 of the 39 towns and nine of the 24 rural municipalities.

Once a municipal development plan is adopted, a zoning by-law puts into place any land-use control regulations called for in plan policies. In addition to the usual regulation of land use within districts it establishes, the by-law may permit the council to approve by resolution any specific development which would otherwise not be permitted, where provided for in the municipal development plan and upon entering into an agreement with the landowner. The by-law may also establish comprehensive development districts in which all developments must be approved by council resolution only, and it may provide that some developments will be permitted only on stated conditions.

The zoning by-law adoption procedure is shown in Figure 15. Any by-law must be approved by the Minister, but amendments including rezonings do not require such approval. Where a zoning by-law is in effect, no development shall be undertaken unless a permit has been obtained from the development officer.

The 42 municipalities with municipal development plans also have zoning by-laws as provided for in the Planning Act. In addition, several municipalities have zoning by-laws passed under the Town Planning Act which preceded the present Act.

Subdivision regulations lay down the requirements for municipal approval of a plan of subdivision and pertain to such matters as a required survey of parcels. The regulations describe the procedures for the approval of tentative and final plans and the general provisions for subdivision design and layout. Once approved, plans of subdivision are filed with the Registry of Deeds. There are three cities, 24 towns, and 15 rural municipalities with subdivision regulations.

FIGURE 14

MUNICIPAL DEVELOPMENT PLAN ADOPTION AND APPROVAL PROCESS
IN NOVA SCOTIA

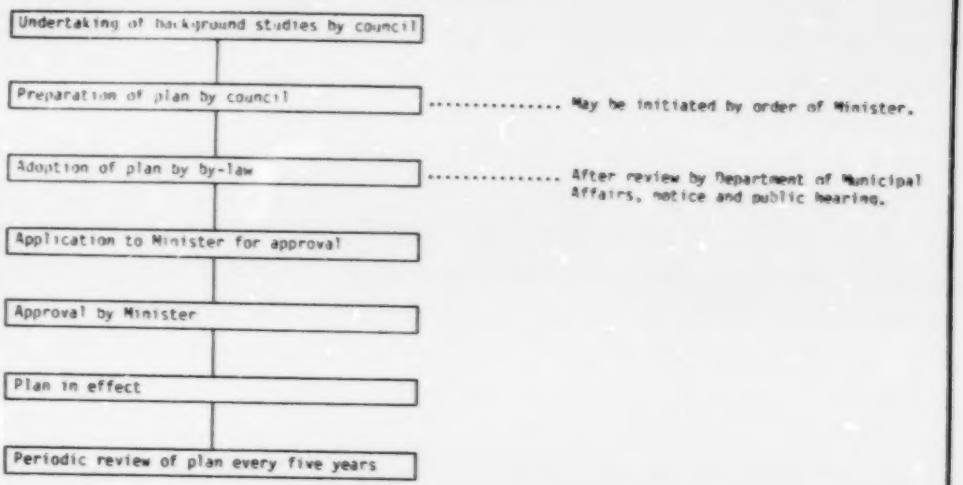
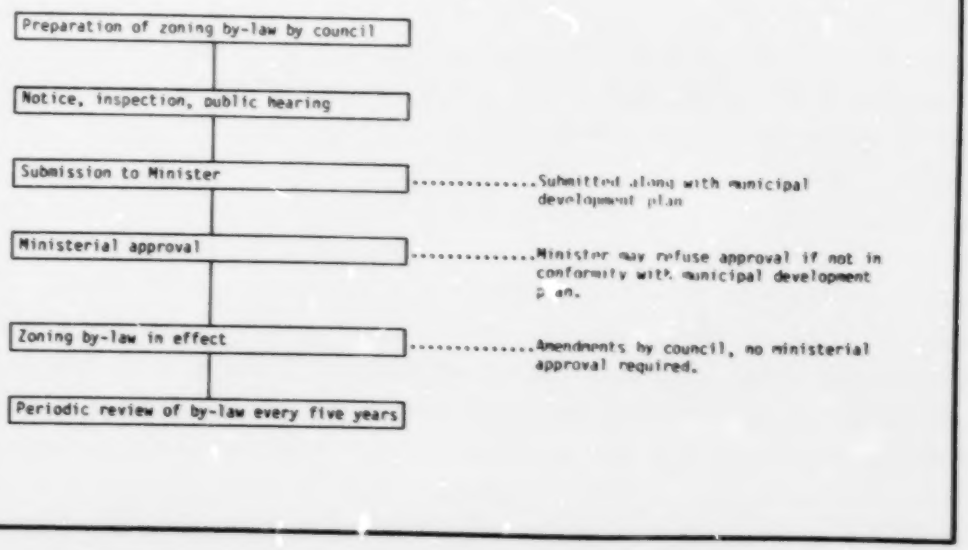

Undertaking of background studies by council
Preparation of plan by council
May be initiated by order of Minister.
Adoption of plan by by-law
After review by Department of Municipal Affairs, notice and public hearing.
Application to Minister for approval
Approval by Minister
Plan in effect
Periodic review of plan every five years

FIGURE 15

PROCESS GOVERNING ADOPTION AND APPROVAL OF ZONING BY-LAWS
IN NOVA SCOTIA


Preparation of zoning by-law by council
Notice, inspection, public hearing
Submission to Minister
Submitted along with municipal development plan
Ministerial approval
Minister may refuse approval if not in conformity with municipal development plan.
Zoning by-law in effect
Amendments by council, no ministerial approval required.
Periodic review of by-law every five years

A subdivision by-law prescribes additional regulations relating to roads and utilities and park and playground reservation. The by-law may require the developer to post a performance bond and contribute money in lieu of a land reservation for public purposes. A total of 23 municipalities have subdivision by-laws: three cities, 12 towns and 8 rural municipalities.

## Regional Planning Experience

The regional development plan presents policies on those resources, land use, and servicing matters of interest to the province. Plan policies are to be implemented, and the development of municipalities within the region is to be coordinated by planning regulations and a development strategy. Once the plan is in place, a regional development permit is required to undertake further development.

The only regional development plan in effect to date is that for the Halifax-Dartmouth metropolitan area. The Halifax-Dartmouth Regional Development Plan was adopted in early 1975 and is currently undergoing a process of review. It covers the entire County of Halifax, the cities of Halifax and Dartmouth, and the Town of Bedford. This development region is divided into an urban development area and a rural sector by a development boundary. The "Urban Form Policy" divides the urban development area into eight general land uses, and the regulations within the Plan list the specific land uses permitted within each general land use. Regional concerns dealt with are industrial and port development and the highways, sewage, and water systems.

Before a regional development permit is issued, there are some 17 conditions to be taken into account which involve a wide range of generally accepted planning principles in addition to conformity with the plan. In the rural sector, detailed regulations control linear sprawl by restricting the creation of new roads for subdivisions and slow subdivision development to a limited number of lots per year. The plan sets guidelines for the municipalities' handling of most of the general land uses in their municipal development plans. Once a municipal development plan conforms with the regional development plan, the regional development plan regulations are no longer applied.

This has already become the case for the cities, the Town of Bedford, and most of the heavily urbanized areas of the County of Halifax within the development boundary.

The Planning Act Review Committee, in their final report of November 1981, suggested a number of changes with regard to provincial government planning in Nova Scotia. The main thrust of their proposal was that regional planning, as it is described in the present Act, should be discontinued and replaced with province-wide or regionalized provincial policy statements. These policies would articulate provincial interest in land-use matters and, as the Committee reasoned, could be tailored to the different regions of the province without undermining their overall intent. The Committee also suggested that in certain special situations these policies could be implemented through provincially imposed land-use regulations, but this would be the exception and not the rule. Under normal circumstances provincial land-use policies would form the overall framework for municipal plans and would be implemented through the municipal planning process.

The difference between regional plans and provincial policy statements that have been "regionalized" is one of plan strategy. Regional plans were to become comprehensive plan documents providing an overall, coordinated approach to solving planning issues and the delivering of services on a regional basis. Provincial policy statements would be issue-oriented and not necessarily comprehensive in nature. It should be emphasized that these changes are suggestions from the Planning Act Review Committee and have not been legislated as of March 1983, although they are being presented as a Bill to the Legislature of Nova Scotia (May 1984).

### Protection of the Built and Natural Environment

The Planning Act and several other provincial statutes and departments as well as the Deputy Ministers' Committee on Land-Use Policy either provide for or have made recommendations for the protection of sensitive areas. A zoning by-law may prohibit the erection of structures on land subject to flooding or on which servicing costs would be prohibitive due to poor drainage, steep slopes, or exposed bedrock. The "Special Development Control Area" section of the Act permits the Minister of Municipal Affairs to act as a municipal council to regulate development in a geographical area of critical concern.

The Halifax-Dartmouth Regional Development Plan deals with the natural as opposed to the built enviroment. The Plan designates a series of regional parks around the metropolitan area and requires that municipal development plans within the region contain policies respecting the designation of conservation zones.

The Deputy Ministers' Committee on Land-Use Policy has made recommendations regarding watershed management, parks, heritage resources, outdoor recreation programs, and the management and coordinated development of aggregate resources. As a result of these recommendations, a Provincial Trails Act S.N.S. 1978 c. 16 regulating the designation of provincial trails for public recreation was passed in 1978, but has yet to be proclaimed. The Special Places Protection Act, regulating areas of archaeological, historical, and ecological merit, was proclaimed in 1980.

In 1979, the provincial government, in an attempt to regulate an apparent dramatic increase in shopping centre development, brought in the Shopping Centre Development Act S.N.S. 1978-79 c. 74. This Act requires that all shopping centre development above a certain size be approved by the Municipal Board, thereby receiving wider public review. This is done in part to ascertain possible detrimental effects of the development on existing viable business concerns.

Other government departments play a major role in environmental protection. The Department of Health, for example, is responsible for ensuring that all development in the province is carried out without creating a health problem. The department is thus directly involved in subdivision approval with respect to on-site sewage disposal and the provision of sewer and water services.

The Department of Environment is also involved in sewer and water services approval. It issues, along with the Department of Health, a Joint Certificate of Approval under the authority of the Water Act R.S.N.S. 1967 c. 335. In addition, the department will review proposed plans for subdivision and provide comment from an environmental perspective. When a developer wishes to alter a watercourse, a Water Rights Permit from the department is required. Lastly, an Industrial Waste Permit must be obtained under the Environmental Protection Act S.N.S. 1973 c. 6 before any industrial effluent is discharged.

In a more indirect way, the Department of Lands and Forests is involved in the development and maintenance of provincial parks, special wildlife reserves and Crown land forest resources.

### Public Participation

Both before and during the preparation of a regional development plan, the Minister may consult with the municipalities and any district planning commissions in the region. The Minister is required to provide a copy of a proposed plan to each municipality along with a notice of a time period in which written objections can be made.

Before adopting or amending a municipal development plan, the council must give public notice of its intention and make provisions for inspection of the plan by interested persons. Council must receive and consider all written objections by some fixed time and date. A planning advisory committee may hold public hearings for such purposes as council may decide.

The same procedures hold for a zoning by-law, with the additions that all municipalities within a certain distance are to be notified and that the planning advisory committee may be required by council to hear objections from the public and submit a report to council. Zoning by-law amendments or rezonings require newspaper notice as well as notification to municipalities within a given distance of the subject property. All municipalities within a certain distance of a subdivision must be notified of its approval. A council wishing to amend or repeal a plan of subdivison on its own motion must send out notices, advertise, and provide for a hearing of interested people.

Anyone who considers himself aggrieved may appeal the granting of a regional development permit, and the applicant may also appeal the refusal of one or any conditions attached to a permit. Any interested person may appeal council approval of a specific development, a zoning by-law amendment, or a rezoning. Council refusal to amend a zoning by-law and a development officer's refusal to grant a development permit can also be available. All landowners within a certain distance of a property for which a minor variance is to be granted must be notified by registered mail, and they or the applicant may appeal a development officer's decision before municipal council. A notice for the maintenance or termination of a non-conforming use may be appealed. Finally, the applicant or the council of either the municipality concerned or an adjacent municipality may appeal the refusing or granting of approval of a subdivision plan.

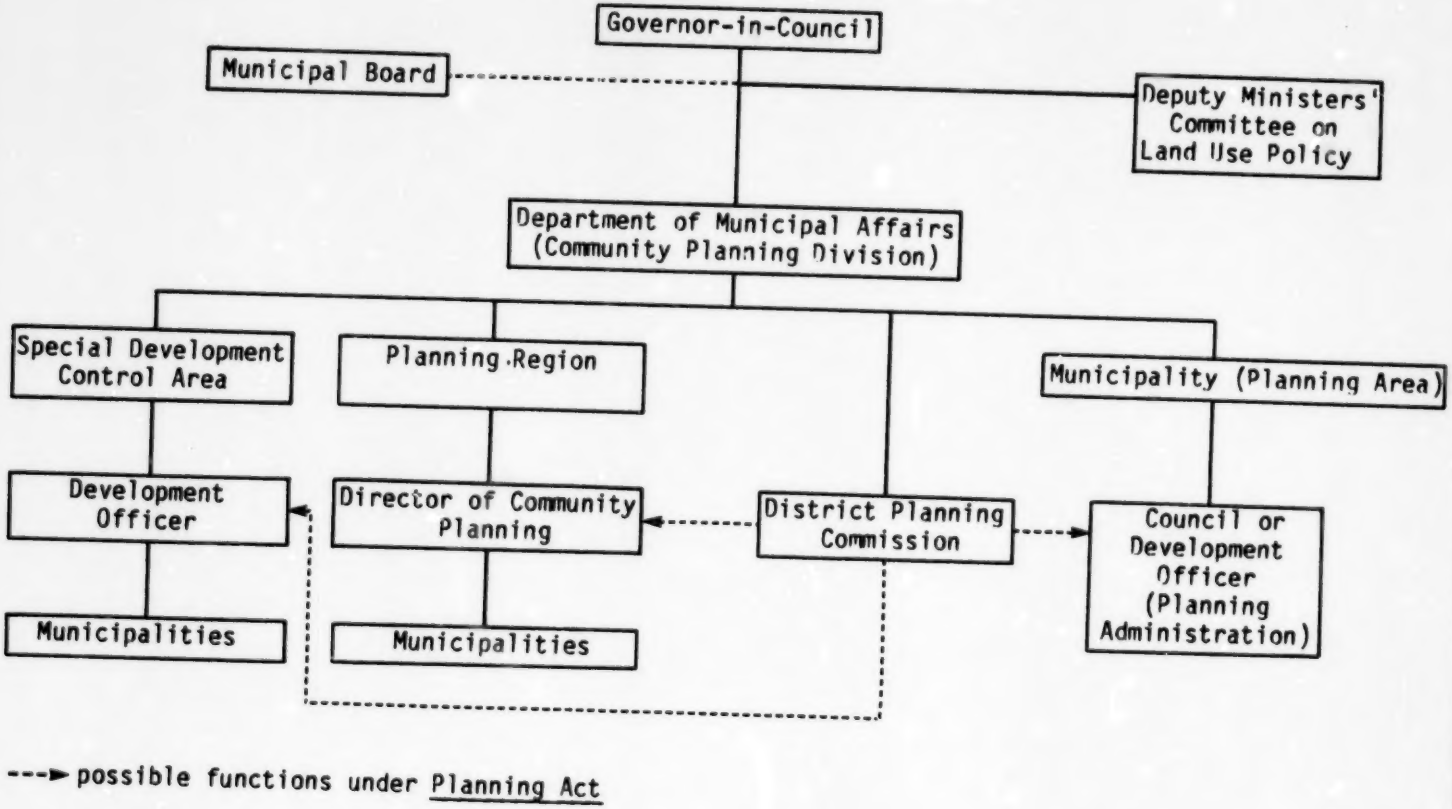
## III NOVA SCOTIA'S ADMINISTRATIVE STRUCTURE FOR PLANNING (FIGURE 16)

### Provincial Government

The Department of Municipal Affairs is a key provincial agency administering land-use planning in Nova Scotia. The following areas fall within the responsibility of the Minister of Municipal Affairs:

FIGURE 16

PLANNING FRAMEWORK FOR NOVA SCOTIA



- preparation of regional development plans;
- approval of municipal development plans and plan amendments, zoning by-laws, and subdivision by-laws;
- prescribing subdivision regulations.

The Governor-in-Council is responsible for both the commencement and the conclusion of the regional planning process, by:

- designating planning regions;
- approving a regional development plan after considering objections;
- determining the date upon which the plan shall come into force.

The Community Planning Division is that section of the Department of Municipal Affairs responsible for the administration of the Planning Act. The division has the general responsibilities of:

- preparing regional development plans;
- reviewing municipal development plans, zoning by-laws and subdivision by-laws before recommending them to the Minister for approval;
- advising the Minister and assisting municipalities in general land planning.

The Director of Community Planning has the specific, legislated responsibilities of:

- issuing regional development permits;
- appealing, if necessary zoning by-law amendments, approval of specific developments, granting of minor variances, and the refusing or granting approval of a plan of subdivision.

The Municipal Board hears appeals on:

- the granting of a regional development permit, with or without attached conditions;
- zoning by-law amendments;
- council approval by resolution of specific developments;
- refusals to grant municipal development permits;
- refusal or granting of approval of subdivision plan.

The Municipal Board may either uphold or reverse previous decisions and may attach conditions to an approval decision. The Board may interfere with a council decision only if

the decision does not carry out the intent of the municipal development plan or if the decision is deemed not in the best interests of the municipality where no plan is in place.

In rural municipalities, the Minister of Transportation or one of his officials must, under the Planning Act, approve all streets and roads in a subdivision, since all public roads in such municipalities are the responsibility of the province.

District Planning Commissions are joint planning bodies established by Ministerial order, at the request of and including both the urban and rural municipalities within a county area. Six counties within the province now have District Planning Commissions. A seventh commission covers part of four counties but has never been active. A District Planning Commission is required to assist the Minister in the preparation of a regional development plan if one is being prepared for its area. The commission advises and assists the councils of its participating municipalities in planning matters generally and specifically in the preparation of municipal development plans, zoning by-laws, and subdivision regulations. A commission may employ a development officer for participating municipalities who is approved by the Minister to issue regional development permits.

On March 11, 1976, the Nova Scotia Executive Council established the Deputy Ministers' Committee on Land-Use Policy with the following objectives:

> The committee will be charged with all matters relating to land use and the development of land-use policy. The committee will cause to be collected all necessary information relating to land use; it will review all matters that have a land use component and will give advice to Cabinet on land use matters. In addition, the committee will initiate discussion and research on land use matters.
>
> This mandate was extended May 31, 1979, when the Executive Council agreed "to allocate time on a quarterly basis for presentation and discussion of matters arising from the Deputy Ministers' Committee on Land-Use Policy." Council also agreed with the recommendation that the Committee should be used as a vehicle for discussion of inter-departmental land-use issues by government.

The Committee consists of the Deputy Ministers for the Departments of Agriculture and Marketing; Culture, Recreation, and Fitness; Development; Environment; Fisheries; Health;

Lands and Forests; Mines and Energy; Municipal Affairs; Tourism; and Transportation. In addition, the Executive Director of the Nova Scotia Housing Commission is a member and the Policy Board is represented by an ex-officio member.

The structure of the Committee has been established on three levels: (1) the Deputy Ministers, (2) a permanently established working group composed of senior officials from each department, and (3) a series of issue groups which are formed, as need arises, to study and report on a particular land-use issue. The issue groups are made up of staff members of the departments which are most closely related to the issue being studied. Not all departments are represented in each issue group, though some departments are represented on more than one.

The multi-departmental approach of the committee has been useful in both the coordination of action on land-use issues as they apply to a number of departments and the education of the various departments as to their role in the solution of land-use problems.

### Local Governments

A municipal council may:

- prepare a municipal development plan along with background studies and a zoning by-law, adopt them, and submit them to the Minister for approval;
- enter into agreements with landowners to approve by resolution developments not otherwise permitted in a zoning by-law, but which are provided for in a municipal development plan;
- amend the zoning by-law without Ministerial approval;
- hear appeals on any decisions of the development officer related to minor variances;
- with Ministerial approval, prescribe additional regulations relating to subdivision;
- approve, amend, or repeal a plan of subdivision;
- review a municipal development plan and zoning by-law within five years of approval.

A planning advisory committee may be appointed by council resolution to assist council in its planning responsibilities. A development officer must be appointed to issue development permits, and council's authority to approve plans of subdivision may be delegated to the others.

## I LAND-USE CONCERNS AND TRENDS

Interests identified by the provincial government and that have relevance to land planning have been incorporated within the new Ontario Planning Act, Bill 159. The protection of the natural environment (including the agricultural resource base and management of natural resources), architectural interests, conservation of energy, and better transportation facilities all respond to specific provincial concerns. The new Act also provides for concerns relating to floodlands, watersheds, wetlands, hazard lands and associated problems affecting certain types of terrain. The Act also responds to other problems such as mineral extraction, mine workings, aggregate resources, airport extensions, railway relocation, and growing highway networks.

The new Planning Act introduces policy statements to be prepared by the Minister of Municipal Affairs and Housing, alone or jointly with other ministers, to ensure that due consideration is given to these kinds of provincial planning concerns in the municipal planning process. These policy statements are then approved by Cabinet.

## II LAND PLANNING IN ONTARIO

The Ontario Planning Act, R.S.O. 1980 c.379, was until recently, the main statute which governed land planning in both urban and rural municipal territory. For over five years, attempts have been made to solve problems that have arisen out of the institutional framework for land-planning in Ontario. The main difficulties had to do with the role of the Ontario Municipal Board (OMB), the lack of provincial guidelines on land use within the municipal land planning process, and the administrative aspects in planning for a territory. Since 1975, a series of consultations between Ontario municipalities and the provincial government yielded suggestions for new items to be included in a revised planning act.

Bill 159, An Act to revise the Planning Act, was prepared. The third reading to the Bill was given January 25, 1983. Proclamation of the Act is expected in August, 1983. Other legislation affecting land planning includes the Municipal Act R.S.O. 1980 c.302, the Planning and Development Act R.S.O. 1980 c.354, the Parkway Belt Planning and Development Act R.S.O. 1980 c.368, the Niagara Escarpment Planning and Development Act R.S.O. 1980 c.316 and the Planning Statute Law Amendment.

The revised Planning Act provides an administrative procedure by which local governments can plan their land use, identify development objectives for the community, prepare an official plan, develop a zoning by-law, administer subdivision controls to implement the stated development objectives, and regulate the various activities and infrastructures in the territory to be developed.

The official plan is the responsibility of the municipal council and may relate to a planning area comprised of one or two municipalities or parts of municipalities. These plans have to be approved by the Minister of Municipal Affairs and Housing, or by regional municipalities with delegated authority (see Figure 17). The municipal council can also prepare and adopt zoning by-laws in order to regulate any development in the planning area (see Figure 18).

The Planning Act also provides for community improvement plans prepared by the municipal council. These plans deal with the redevelopment of an area within the municipality and ensure that provisions of existing plans are maintained; the council can prescribe standards for maintenance and occupancy in that area and enact demolition controls. Plans required for community improvement must be approved by the Minister of Municipal Affairs and must conform to the existing official plan.

Zoning by-laws can prohibit the use of certain land and buildings and the building of structures on land subject to flooding, steep slopes, and marshy land and regulate pits and quarries and the density of development. Councils may also control the location of mobile homes (and their construction) through zoning.

The new Planning Act permits local governments to use other planning instruments aside from the more conventional ones. Holding by-laws, bonus by-laws, interim-control by-laws, and temporary use by-laws allow local governments to respond to a variety of problems. For example, holding by-laws permit future land uses to be effective only after certain conditions have been met. Bonus by-laws permit increased height and density of development in return for meeting a policy objective in the official plan. Municipalities can now put a freeze on land uses for a specified period of time through the interim-control by-laws, and they may also permit land and buildings to be used temporarily when passing a temporary use by-law.

Other types of controls which are used are subdivision controls and site-plan controls that enable local government to control development in accordance with the plan. Land severance authority is assigned to upper-tier municipalities, cities outside regions, and separate towns. Municipal councils can be granted the authority to approve severances.

FIGURE 17

APPROVAL PROCEDURE FOR AN OFFICIAL PLAN IN ONTARIO

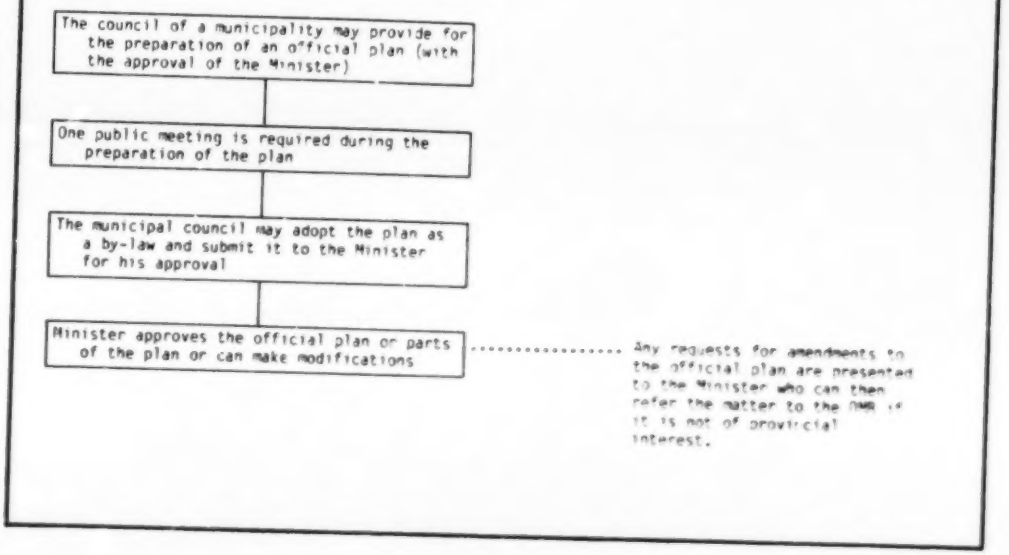
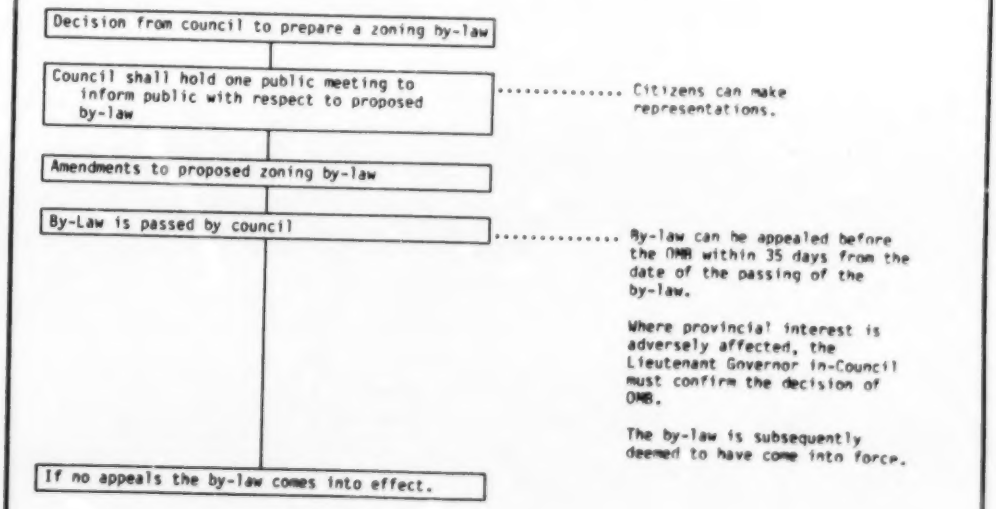

The council of a municipality may provide for the preparation of an official plan (with the approval of the Minister)
One public meeting is required during the preparation of the plan
The municipal council may adopt the plan as a by-law and submit it to the Minister for his approval
Minister approves the official plan or parts of the plan or can make modifications
Any requests for amendments to the official plan are presented to the Minister who can then refer the matter to the OMB if it is not of provincial interest.

FIGURE 18

APPROVAL PROCESS FOR ZONING BY-LAWS IN ONTARIO


Decision from council to prepare a zoning by-law
Council shall hold one public meeting to inform public with respect to proposed by-law
Citizens can make representations.
Amendments to proposed zoning by-law
By-Law is passed by council
By-law can be appealed before the OMB within 35 days from the date of the passing of the by-law.
Where provincial interest is adversely affected, the Lieutenant Governor in-Council must confirm the decision of OMB.
The by-law is subsequently deemed to have come into force.
If no appeals the by-law comes into effect.

In the context of other legislation, the Municipal Act provides for the regulation of construction and building by-laws and sign provisions. The Planning Statute Law Amendment Act, Bill 194, complements the new Planning Act and aims at removing all duplication regarding planning provisions between the new Act and statutes establishing regional municipalities. The Planning Act draft regulations deal with rules of procedures and notice requirements for consent requirements and community improvement plans.

Equally important are provisions introduced by the Planning and Development Act administered by the Ministry of Treasury and Economics. This Act authorizes the provincial government to designate any region of the province as a development-planning area. This Act also enabled two other statutes, the Niagara Escarpment Planning and Development Act and the Parkway Belt Planning and Development Act. These two statutes cover specially designated planning areas under the provincial government's jurisdiction. A development plan for the designated regions is prepared and, much like the official plan, it identifies development objectives and the means of implementing these policies. The plans may contain information pertaining to policies regarding the social, physical, and economic development of the region, industrial and recreational areas, and the physical resources of the territory, their location, and their proposed management strategy.

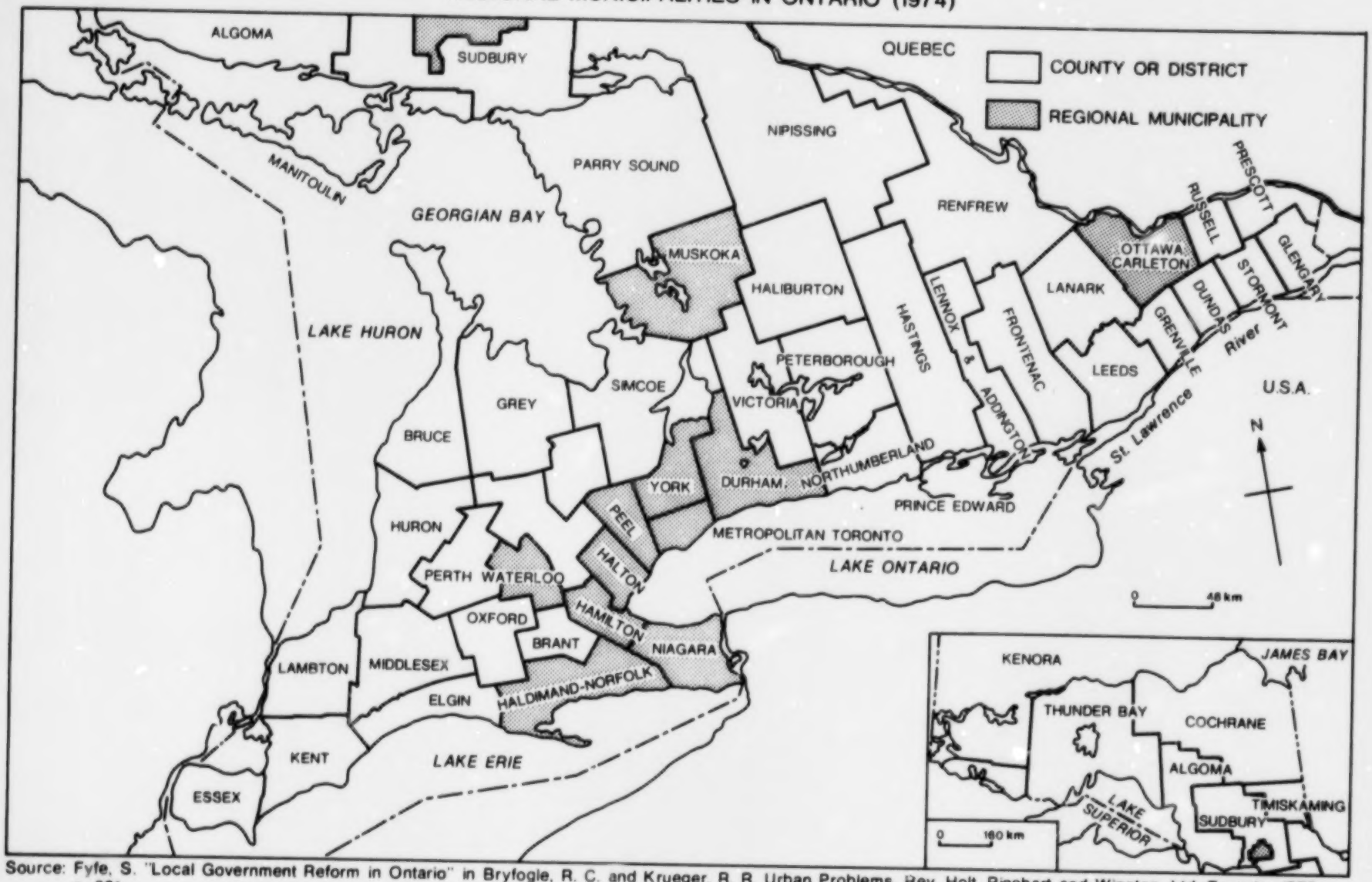
### Regional Planning Experience

Regional planning in Ontario goes back several years and stemmed from a desire to resolve development conflicts between urban and rural regions and to protect specific resources such as agricultural lands. Through the Regional Government Program, regional municipalities were established and were given the authority to plan within their boundaries (see Map 4). Most of this planning authority was delegated under special statutes (see Table 9).

Planning authority will be now included within the provisions of the new Planning Act. Regional municipalities will continue to prepare regional plans which will be subject to a public hearing before being adopted. The Minister of Municipal Affairs gives final approval to the plan, and the regional plan will prevail over local plans and zoning by-laws.

MAP 4

REGIONAL MUNICIPALITIES IN ONTARIO (1974)




Source: Fyfe, S. "Local Government Reform in Ontario" in Bryfogle, R. C. and Krueger, R. R. Urban Problems, Rev. Holt, Rinehart and Winston, Ltd. Toronto. 1975 p. 361

TABLE 9

MUNICIPAL REORGANIZATION AND REGIONAL GOVERNMENT

| Regional Denomination | Regional Area | Legislation |
|---|---|---|
| Metropolitan Toronto | 13 municipalites plus metro reduced to 6 municipalities | R.S.O. 1980 c. 314 |
| Ottawa-Carleton | 16 municipalities reduced to 11 | R.S.O. 1980 c. 439 |
| Niagara | 26 municipalities reduced to 12 | R.S.O. 1980 c. 438 |
| Peel-Halton | Peel - 10 to 3 Halton - 9 to 4 | R.S.O. 1980 c. 440 |
| Waterloo Area | 15 municipalities reduced to 7 | R.S.O. 1980 c. 442 |
| Muskoka District | 25 municipalities reduced to 6 | R.S.O. 1980 c. 121 |
| Hamilton-Wentworth | 12 municipalities reduced to 6 | R.S.O. 1980 c. 437 |
| Sudbury | 15 municipalities reduced to 7 | R.S.O. 1980 c. 441 |
| York | 14 municipalities reduced to 7 | R.S.O. 1980 c. 443 |
| Durham (Oshawa area) | 20 municipalities reduced to 8 | R.S.O. 1980 c. 434 |
| Norfolk-Haldimand | 28 municipalities reduced to 6 | R.S.O. 1980 c. 435 |
| Oxford County | 1 city, 1 county and 17 local municipalities reduced to 8 | R.S.O. 1980 c. 365 |

SOURCE: Fyfe, S. Local Government Reform in Ontario in Bryfogle, R.C. and Krueger, R.R. 1975 - Urban Problems rev. ed., Holt Rinehart and Winston, Toronto, pp 352 - 366.

## Protection of the Built and Natural Environment

Numerous mechanisms specified within the Planning Act are designed to be used by local, regional, and provincial governments to protect and preserve the environment. The provincial government may issue specific statements of policy relating to municipal matters and to the protection of natural resources. An example of that policy is the Foodland Guidelines, intended to assist local municipalities with rural ties in integrating agricultural lands into their official plans.

Local and regional governments may have regard for environmental matters through zoning and subdivision controls. The approving authority, when considering a draft plan of subdivision, must consider the health, safety, convenience, and welfare of the inhabitants of the local municipality. Several other factors, such as the conservation of natural resources, flood control, physical layout of the plan, energy conservation, and suitability of land for the purposes for which it is to be subdivided, must also be taken into consideration. The Minister of Municipal Affairs and Housing may also impose conditions to the approval of a plan of subdivision, such as requiring the conveyance of five percent of the land, or cash in lieu of land, for parks for residential use.

Other acts also provide measures to protect the environment. The Niagara Escarpment Planning and Development Act aims to preserve the unique topography of the escarpment which is designated as a protected area. Planning and development controls are under the responsibility of the Niagara Escarpment Commission which is composed of appointed members of the provincial government and appointed individuals of member municipalities in the area.

The Parkway Belt Planning and Development Act is designed to introduce an urban-separator utility corridor. This corridor is intended to structure and serve urban growth along the shorelines of Lake Ontario and provide a demarcation line between urban and rural areas.

## Public Participation

Public participation has been integrated into the new Planning Act, which stresses that the public must be consulted according to the principle of natural justice. The participation process in Ontario requires councils to provide public meetings on the preparation of

official plans and/or their amendment. The same applies before passing a zoning by-law and amending the by-law.

Public participation is equally required in special planning areas when plans are being prepared or amended. Municipal councils may also delegate some authority to members of the public through the planning advisory committee, formed of appointed or elected members of the council and interested citizens.

## III ONTARIO'S ADMINISTRATIVE PLANNING STRUCTURE

### Provincial Government

Several bodies have input into land planning. The main body that formulates overall planning policies and programs is the provincial Cabinet, which is ultimately responsible for the direction of development in the province.

Attached to the Cabinet is the Resource Development Secretariat composed of public servants who report to the Resource Development Cabinet Committee, made up of Deputy Ministers from several ministries. These ministries include: Transportation and Communication; Municipal Affairs and Housing; Agriculture and Food; Environment; Industry and Trade; Northern Affairs; and other ministries related to resource development. The Secretariat has basically two functions: first, it analyzes policies as they are brought forward to Cabinet and, second, it coordinates various development policies as they are articulated.

Attached to the Cabinet is also the Land Use Committee, which exists under the Resource Development Cabinet Committee. The Land Use Committee was established by Cabinet agreement in 1977 and includes senior representatives from the Ministries of Municipal Affairs and Housing, Environment, Natural Resources, Transportation and Communication, and Agriculture and Food. One of the roles of this Committee is to revise and adopt policies as they are articulated and ensure that such policies are well coordinated within the province. The Foodland Guidelines form one example of the Committee's work.

The Ministry of Municipal Affairs and Housing has substantial power with regards to land planning. Its authority is articulated in the Planning Act and is not just restricted to the procedural aspect but extends to the substantive aspect of planning. In other words, the Ministry can define the content of subdivision plan standards, official plans, and documents submitted by municipalities for approval.

The Plans Administration Branch is mainly responsible for administering the provisions of the new Planning Act and, jointly with other branches, carries the following responsibilities:

- defines and names a planning area for municipalities in territorial districts and unorganized territories;
- prepares orders in respect to any land in Ontario;
- prepares regulations and operating procedures according to provisions of the Act;
- approves all official plans and community improvement plans (except for cases where authority has been delegated to regional or specified agencies);
- approves subdivision plans (except in areas where authority is delegated);
- issues policy statements on town planning, subdivision, and mobile-park planning and development standards;
- monitors lot division;
- responds to all questions regarding road closure and widening in connection with a registered subdivision plan, or roads situated near a body of water;
- approves existing subdivision controls;
- co-ordinates the delegation of ministerial powers to specified regional or local authorities (i.e., for subdivision and condominium approval, official plans approval, and land division approval);
- can refer to any other provincial ministry, regional, or local authority, that the Minister of Municipal Affairs considers has an interest in the approval of the official plan.

Another important element in the planning process is the Ontario Municipal Board (OMB) whose role is defined in the Planning Act. The Board participates in provincial land planning by acting as an administrative tribunal which settles disputes as to the interpretation of the Planning Act or the Municipal Act. Matters relating to zoning and official plans fall within the OMB's jurisdiction.

Petitions to Cabinet on planning matters will be discontinued, and the OMB will hear and decide on most planning appeals. The Minister of Municipal Affairs and Housing may also define an issue as being of "provincial interest," in which case the Board can then hold a hearing and make a decision. OMB decisions do not come into force until they have been confirmed by Cabinet.

Members of the Board are appointed by the Lieutenant Governor-in-Council. OMB decisions therefore can only be appealed before the Ontario Court of Appeal on questions of jursidiction, authority, or law.

## Local Governments

Local governments have been delegated planning powers under the provisions of the Planning Act and the Municipal Act. Planning power at the local level in Ontario is largely in the hands of the municipal or regional council. In northern Ontario, however, planning boards continue to exercise the Minister's power over their planning areas as long as they retain their authority.

Consents to land division (land severance) in southern Ontario continue to be the responsibility of councils which take the responsibility of granting consents or further delegating to others (see Figure 19). In northern Ontario (in those areas outside regional municipalities and cities), it is the Minister of Municipal Affairs who is responsible for consents; this authority, however, may be further delegated to a council or board.

The municipal (regional) councils have authority to develop policies regarding the development of municipal (regional) territory through the preparatior and adoption of official plans (regional official plans). These policies or statements of principles must be in conformity with the provisions and principles of provincial government policies; such provincial policies oversee the rational development of the territory and orderly management of provincial lands. Local and regional councils can obtain assistance from a planning advisory committee that it has appointed. The committee can prepare the official plan, providing council has delegated that power.

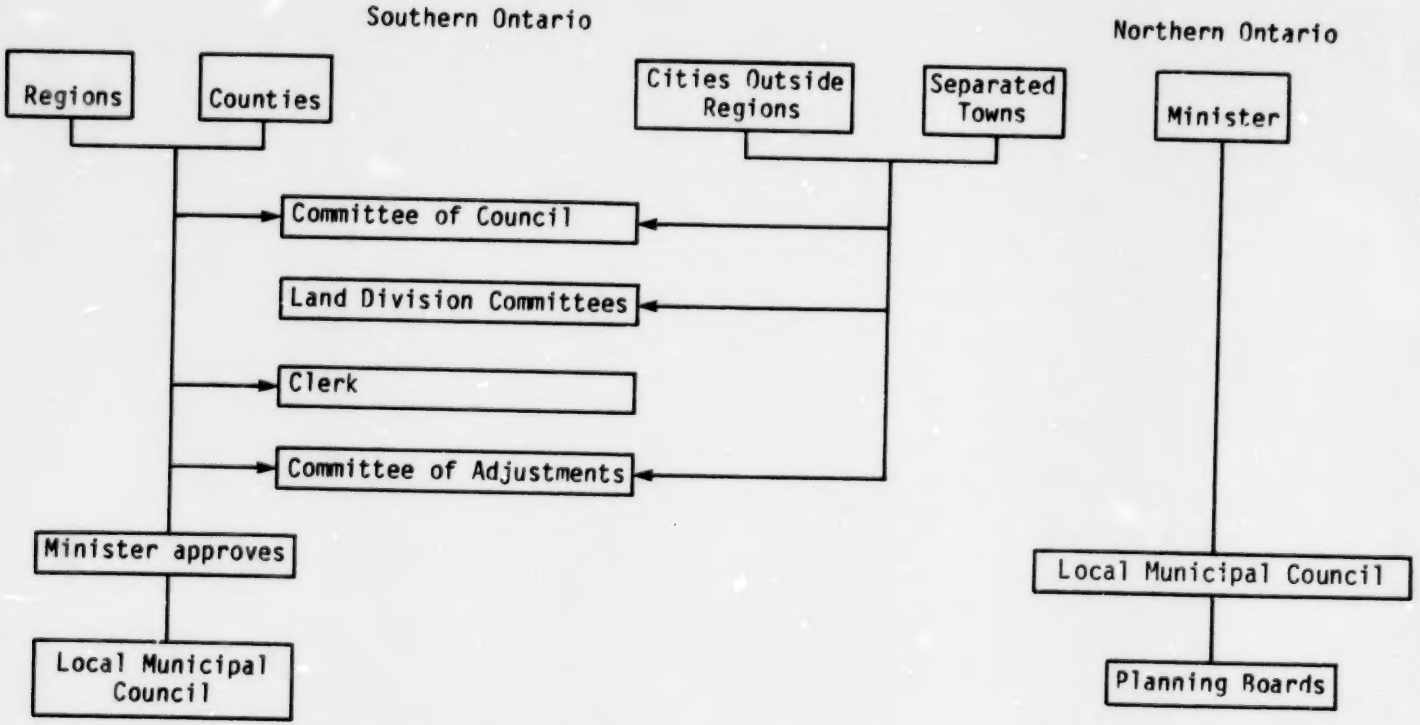
The municipal (regional) council must also bring its development policies into conformity with those issued by the provincial government. A council cannot make decisions contrary to provincial planning principles, for its role is essentially that of managing municipal activities. Where an official plan exists, local governments may designate through by-law an area as a community improvement area and prepare and adopt a plan.

Municipal (regional) councils may also acquire land in implementing the provisions of their official plans, and they have power to expropriate and dispose of land. Upper-tier municipalities, cities outside regions, and separated towns may also obtain approval authority with regard to subdivision and condominium plans, greatly increasing their control over land use.

A regional municipality may also assume some responsibility towards planning the territory of a local municipality, or it can assist such municipalities in preparing official plans,

FIGURE 19

AUTHORITY FOR GRANTING CONSENTS IN ONTARIO



subdivision plans, or the like. Consent granting authority in northern Ontario is assigned to the Minister of Municipal Affairs and Housing and the councils of the regional Municipality of Sudbury and the four cities of North Bay, Sault Ste-Marie, Thunder Bay, and Timmins.

## I LAND-USE CONCERNS AND TRENDS

Many past and present land-use problems in Prince Edward Island date back to its early settlement, when most of the land was privately owned. Land ownership, land tenure, and the management of the land resource have troubled the agricultural industry and more recently urban and recreational activities. On several occasions the government of P.E.I. has had to react quickly to province-wide concern. For example, in 1967 the provincial government created the Economic Improvement Corporation to solve some socio-economic problems associated with land abandonment and land fragmentation.[1] In 1969, the government established the Land Development Corporation[2] was to provide assistance to the farming industry, acquiring land to be managed for farming, tourism and outdoor recreation, forestry, wildlife, and community pasture use. The province has also on several occasions amended the Real Property Act[3] in response to the increasing number of large tracts of land being owned by non-residents. The principal changes introduced in 1972 and 1974 control transactions involving all non-residents.

In 1982, the government introduced the Prince Edward Island Lands Protection Act (S.P.E.I., 1982, Cap. 16) to control all land holdings in excess of 405 ha (1,000 acres) by an individual and 1214.5 ha (3,000 acres) by a corporation. Other significant changes were made in 1974 when the government restructured its municipal land-planning process. These new planning procedures are embodied in the new Planning Act (R.S.P.E.I., 1974, Cap. P-6), An Act to Establish the Land Use Commission (23 Eliz. II, 1974, Cap. 22), and the Town Act (R.S.P.E.I., 1974, Cap. T-4).

Some land-use concerns in Prince Edward Island are related to land development standards for major retail developments and the establishment of procedures for issuing or denying building permits for such developments. Problems related to the environmental impact of specific developments like the proposed development of the Greenwich/Cablehead area are also

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1 Valerie Cranmer, Land Use Programs in Canada: Prince Edward Island (Ottawa: Lands Directorate, Environment Canada, 1974).

2 See the Land Development Corporation Act (1969, c. 40, S.1 or R.S.P.E.I., 1974, Cap. L-2).

3 Revised Statute, Real Property Act (R.S.P.E.I., 1974, Cap. R-4).

important. Protection of sensitive environments like the sand dunes and beaches from unwanted development, while keeping public access to the beaches and other special resources areas, is also a matter of concern for the provincial government. Land degradation, especially of agricultural land, is another government priority. Financial assistance and technical programs also exist to help farmers improve their crop land.

In the past, the government of Prince Edward Island always reacted through legislation, policies, or programs to solve land-related problems. In the pages that follow, we will describe the land-planning process and the mechanisms used in municipal planning.

## II PLANNING PROCESS IN PRINCE EDWARD ISLAND

In the Province of P.E.I., land planning falls under the Planning Act (R.S.P.E.I., 1974, cap. P-6), which is administered by the Department of Community and Cultural Affairs. The Act sets forward a series of rules by which municipalities can plan and manage land. Any city, town, or rural municipality that wishes to adopt a plan and zoning by-law must do so in accordance with these rules, which establish the procedures for the preparation and implementation of plans, such as official or regional plans. The municipal planning process described in the Planning Act is voluntary. The Act provides for the preparation, adoption, approval, and implementation of official or regional plans, the acquisition of land by municipalities, and subdivision plans.

### Land Use Commission

The Land Use Commission was created by An Act to Establish the Land Use Commission (23 Eliz. II, 1974, Cap. 22). This Act was later repealed and the Land Use Commission is now governed under the Planning Act. The Commission is formed by seven members from the private sector appointed by the Lieutenant Governor-in-Council. The Commission also has a two-member advisory board. Members of the board do not vote on any issues coming before the Commission, but act as advisors to the Commission. The Land Use Commission makes recommendations to the Lieutenant Governor-in-Council regarding guidelines for the following: land use in inland and coastal areas; rural, urban, and recreational subdivision policies, highway access and strip development policies; policies relating to the establishment and operation of regional, joint, and municipal planning boards; policies relating to the purchase, ownership, and sale of land by partnerships, syndicates, companies, and corporations, etc. (S. 4 of the Planning Act). The main duty of the Commission is to serve the Executive Council in the policy role. Other duties are to assist

planning boards in the coordination of their activities and approve a proposed official plan after it has been adopted by municipal council. The Commission may also define and name a planning area consisting of a territory without municipal organization and may appoint a planning board for the planning area (S. 23 of the Planning Act). The Commission acts as an administrative and judicial court in a manner similar to that of the Ontario Municipal Board (O.M.B.). Anyone dissatisfied with a decision made in the administration of the Planning Act, in the implementation of programs and regulations, or in carrying out duties established under the Act may appeal to the Commission. For example, any person aggrieved by the decision of a council to issue or deny a building permit has 45 days to appeal the decision to the Commission. The decision of the Commission can be challenged in Court.

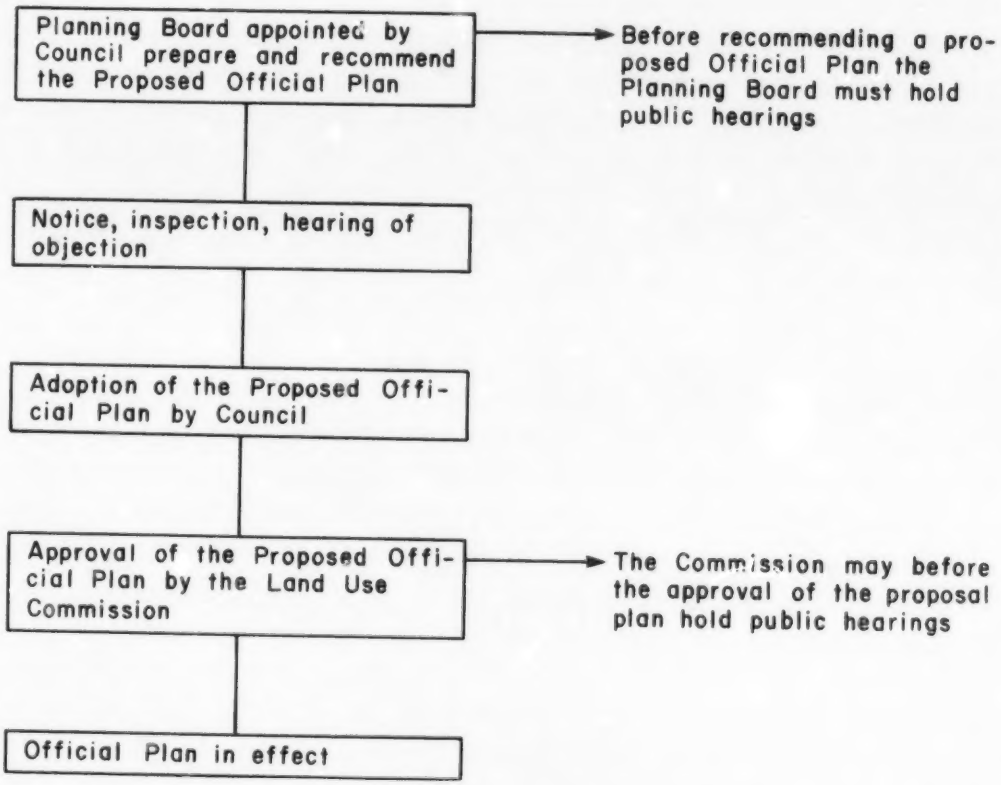
The Planning Process (Figure 20)

Preparation of an offical plan is the responsibility of the municipality, which can be an incorporated city, town, village, community improvement committee, or planning area. Municipal councils may delegate and appoint a planning board which has the following powers and duties: to prepare and recommend to council for adoption an interim planning policy, a proposed official plan, and alterations and additions to the official plan; recommend to council by-laws, amendments to by-laws, and legislation in respect of the official plan; prepare cost estimates of any public work and hold public meetings for the purpose of obtaining the participation and cooperation of the inhabitants of the municipality in the preparation of the proposed official plan (S. 24 of the Planning Act). An official plan may include: a statement of policy with respect to the development and use of land in the planning area; the reservation of land for public purposes; the provision of services and infrastructure facilities; proposals relating to the financing and programming of public projects; the phasing of development or redevelopment of various areas and other matter related to the physical, social, or economic development of the planning area. The official plan must also include a map showing the division of the planning area into areas of permitted land-use classes and proposals as to the content of a zoning by-law. Before approving the proposed official plan for its recommendation to council, the planning board must hold public hearings. After it has received its recommendations, the board submits the plan to council for adoption. Before adopting or revoking the plan, council has to give public notice of its intention and provide for inspection of the plan.

After council has adopted the proposed official plan, it is sent to the Land Use Commission for its approval. Prior to approval, the Commission may hold public hearings. Once the proposed official plan has received the approval of the Commission, it becomes the official plan of the delineated area. A council can then draft zoning by-laws to carry out the intent of the plan. Council also has the power to buy, hold, sell, lease, or dispose of land, make by-law regulations to define the limits of boundaries of areas to which

Figure 20

MUNICIPAL DEVELOPMENT PLAN ADOPTION AND APPROVAL PROCESS IN PRINCE EDWARD ISLAND


Planning Board appointed by Council prepare and recommend the Proposed Official Plan
Before recommending a proposed Official Plan the Planning Board must hold public hearings
Notice, inspection, hearing of objection
Adoption of the Proposed Official Plan by Council
Approval of the Proposed Official Plan by the Land Use Commission
The Commission may before the approval of the proposal plan hold public hearings
Official Plan in effect

Note: The same process applied to a regional plan. Two or more municipalities may by agreement constitute a Joint Planning Board. The Joint Planning Board shares the same powers and duties as the Planning Board.

regulations are applied, implement the official plan, and establish building standards, etc. (S. 38 of the Planning Act) Regulations must be submitted to the Commission for approval after they have been adopted by council.

In Prince Edward Island all municipalities can plan under the legislation and there are more than 80 municipalities. There are already 21 official plans in existence and six other municipalities have a combination of unofficial plans, development by-laws, etc.

### Joint Planning Experience

Two or more municipalities may by agreement constitute a joint planning board which may prepare and recommend adoption of a proposed regional plan by the councils concerned. The powers given to the regional board are exactly the same as the ones given to the planning board. Procedures for adoption of a plan and its approval are also the same. Each council of the participating municipalities has the same powers and duties of any other council. There are two regional planning boards in Prince Edward Island: the Charlottetown Area Regional Planning Board and the Summerside Area Regional Planning Board.

### Protection of the Built and Natural Environment

The Planning Act and other provincial statutes provide for the protection of environmentally-sensitive or special areas. Special Planning Areas can be designated under the Planning Act. In these areas nobody can undertake any development without the prior approval in writing of the Minister. Special Planning Areas are designated for the following: to provide provincial parks and pleasure grounds for the general public; to protect beaches and beach lands from undesirable development and make them available for public use; to protect heritage sites; to preserve fragile environments like dune lands, ponds and wetland areas, and other special ecological features (S. 77 of the Planning Act Regulations). There are presently four Special Planning Areas in the province.

Conservation zones can also be designated under the Planning Act. Within a conservation zone any changes in use of land or buildings and erection or construction of any structure are prohibited. Each zone can have a particular set of goals. The only conservation area, the Morell River zone, was created to maintain the recreational value of the area and retain its unspoiled state for the use and enjoyment of present and future generations, as well as to protect it from the encroachment of undesirable and incompatible land uses.

The Prince Edward Island Lands Protection Act (S.P.E.I., 1982, Cap. 16) controls land holdings. No person or corporation can acquire an aggregate land holding in excess of 1000 acres and 3000 acres respectively without a permit issued by the Lieutenant Governor-in-Council. A non-resident person or corporation cannot acquire a total of more than ten acres or have a shore frontage of more than five chains[4] without the permission of the Lieutenant Governor-in-Council. The Land Use Commission reviews all applications for permits. The recommendations of the Commission are based on an assessment of the best use of the land, the most effective manner of ensuring the best land use, and the needs of the people of the province who are economically or culturally involved in the use of that grade or class of land.

The Land Development Corporation, created by the Land Development Corporation Act (1969, c. 40,S. 1), is a corporate body under the Department of Agriculture and Forestry. The main objective of the corporation is "to conserve, develop and assist in improving the use of land in Prince Edward Island in relation to its capability and in accordance with the public interest, but with a primary objective of consolidating good agricultural lands for the purpose of increasing farmer and agricultural sector income."[5]

Excavation pit activities are controlled by the Planning Act Regulations under which no activities, temporary or permanent, can take place before a permit is issued by the Minister of Community and Cultural Affairs. The Minister may refuse to issue a permit if the use of the land as an excavation pit would be in contravention of any other regulation or by-law passed or approved under the Planning Act, or if the location of the site creates an unusual and immediate hazard to persons living within 152.4 m (500 feet) of the site. Before a pit may be abandoned all the sides or walls of the excavation pit must be sloped down to a specific run-rise ratio. For a temporary activity, the site has to be restored to support ground cover appropriate to its surroundings.

### Public Participation

Public participation in the planning process is provided for by the Planning Act. Before any proposed official plan is recommended to council for adoption, the planning board must hold public hearings. Once the proposed official plan has been recommended by the planning board and before the council adopts or revokes it, notice of its intention to do so by

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4 A chain is equivalent to 20.117 meters.
5 Prince Edward Island Land Development Corporation, Annual Report for the year ending 31 March, 1981 (Charlottetown).

advertisement must be inserted at least once a week for two successive weeks in a daily newspaper. The council must make suitable provision for inspection of the proposed plan and provide a suitable place for the hearing of objections. The same procedures are followed in the case of any alteration or addition to the official plan. Again, the same process applies to the recommendation, adoption, or approval of alterations and additions to a regional plan.

Before the Land Use Commission recommends to the Lieutenant Governor-in-Council any guidelines, policies, programs, or any other matters related to land-use policies, it must hold public hearings on the subject of the proposed recommendations. The Commission also has to consult with any group or organization in the province that expresses an interest in the subject.

## III PRINCE EDWARD ISLAND'S ADMINISTRATIVE STRUCTURE FOR PLANNING

### Provincial Government

The Department of Community and Cultural Affairs is the key provincial agency administering land-use planning in P.E.I. The minister approves zoning by-laws and subdivision plans. Regulations are made only by the Executive Council. The Land Use Commission has the responsibility of approving the official or regional plan and plan amendments, and it is also responsible for accepting requests for the identification program and for assisting planning boards in the coordination of their activities. The Commission has the power, as previously noted, to define and name a planning area consisting of a territory without municipal organization and can appoint a planning board for the area. Any person dissatisfied with a decision made in the administration of the Planning Act, the implementation of programs, or the carrying out of duties at any level may appeal before the Commission.

The Lieutenant Governor-in-Council has the power of approving recommendations of the Commission on matters related to land-use policies. He can also approve recommendations of the Commission respecting the delegation of some of its duties and powers. The Lieutenant Governor-in-Council may, if a city or town requests, conduct its planning.

The Planning Act Regulations apply to all lands within all areas of the province with the exception of municipalities under the jurisdiction of the Planning Act. The Minister may also issue a permit authorizing the placement of a mobile home or the construction of a summer cottage. Under these regulations, the Minister of Community and Cultural Affairs may issue a permit for the operation of a temporary or permanent excavation pit.

Under the Planning Act, a planning board in preparing an official plan, may seek the advice and assistance of the planning staff employed by the Department of Community Affairs.

In order to control closely the development of a major retail development project[6] within the boundaries of a municipality (no building permit can be issued outside of municipal limits), the approval of the Minister is necessary.

Local Government

A municipal council is responsible for the adoption and implementation of its official plan. Upon the adoption of an official plan, a council shall proceed to draft zoning by-laws implementing the intent of the plan. Through by-laws, council may also make regulations to implement the plan, establish building standards, or other regulations for the purpose of the general welfare, health, and safety of the population.

Every council may appoint a planning board. The planning board may prepare and recommend to council the adoption of the proposed official plan or alterations and additions to the official plan. The board can recommend to the council for its adoption an interim policy, by-laws, amendments to by-laws, and legislation in respect of the official plan.

A municipality may buy, lease, sell, or otherwise dispose of land within the municipality in order to develop any of the features of the official or regional plan.

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[6] A major retail development is anything over 2,000 square meters of retail floor space.

# I LAND-USE CONCERNS AND TRENDS

## Changes in the Legal Framework

In Quebec, as in the other provinces, the legal framework for land-use planning and development at the municipal level is the responsibility of the provincial government. The powers of the municipalities were originally defined in the Cities and Towns Act R.S.Q. 1977c. C-19 and the Municipal Code, depending on the status of the municipalities. These Acts establish the basic powers involving zoning, subdivision, and building by-laws. Their implementation is optional and only some of the 1,500 municipalities in Quebec have put them into effect.

New planning techniques, however, have forced government authorities to modify this basic framework frequently over the years. It has also become increasingly more evident that planning on a regional scale is required, since urbanization decreases the distinction between developed and rural areas.

These factors contributed to the government's decision to establish a coherent framework for land-use planning and to introduce the idea of regional development. However, instead of centralizing responsibility within the government, a decentralized approach was taken which gave responsibility for land-use planning to local authorities. This decision led to the creation of new regional structures that would ensure co-ordination and harmonization of the efforts of local municipalities.

The Montreal and Quebec Urban Communities and the Outaouais Regional Community were created in 1969. Under enabling Acts, these urban and regional communities are responsible for preparing a development plan, though the local municipalities remain responsible for preparing planning programs and related by-laws.[1] Regional communities are also responsible for various services of regional interest, such as public transportation, drinking water supply and sewage treatment, treatment of solid wastes, parks and intermunicipal recreational facilities, economic promotion, traffic control, and so forth.

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[1] An Act Respecting the Montreal Urban Community R.S.Q. 1977c. C-37.2. An Act Respecting Quebec Urban Community R.S.Q. 1977c. C-37.3. An Act Respecting Outaouais Regional Community R.S.Q. 1977c. C-37.1.

Following the experiment with these communities, several proposals for the creation of regional structures for the entire province were studied, and in 1979, the Act Respecting Land Use Planning and Development established the current framework for land-use planning and development.

## Principles of the Act Respecting Land Use Planning and Development

Bill 125 sets forth a coherent framework for land-use planning and development based on four major principles considered to be essential:

- planning is above all a political responsibility and not simply a technical exercise, so it should be elected officials who make choices and decisions and conciliate any differences of opinion;
- the citizen should be involved in the different phases of planning by means of a mandatory process of information and consultation;
- planning is a shared responsibility of the three different levels of decision-making -- the municipality, the regional county municipality, and the Quebec government, with each having its own area of responsibility (see Figure 21);
- planning requires co-ordination and conciliation of the choices and actions of these three decision-making levels through exchanges of information and harmonization of the different objectives and projects of each level of government.

One of the most important aspects of the new law is the creation of regional county municipalities or RCMs. The RCMs are new bodies which have as their main responsibility the preparation and implementation of a regional land use development plan. It is important to note that the RCMs are not like the regional governments in some provinces with responsibility for services such as education, health care, and protection. While the RCMs are primarily responsible for land use development plans, such intermunicipal responsibilities as assessment and solid waste disposal may be delegated to them by a consensus of member municipalities (see Figure 22).

The RCMs replaced the municipal counties, which had regrouped all the rural municipalities and unorganized territories, but excluded the urban municipalities. However, it was essential to include the urban municipalities in the body responsible for the preparation of regional plans so as to reflect the strong interdependence between rural and urban areas. These new regional structures regroup all the territory in Quebec including urban municipalities, rural municipalites, and unorganized territories (see Map 5).

After consultations with municipal councils, various agencies, and the public, the boundaries of the RCMs were established. In all, 94 RCMs were created to replace the 71

Figure 2!

DECISION LEVELS IN LAND PLANNING

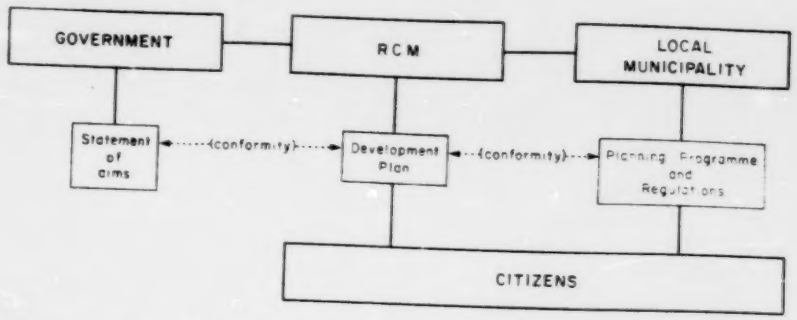
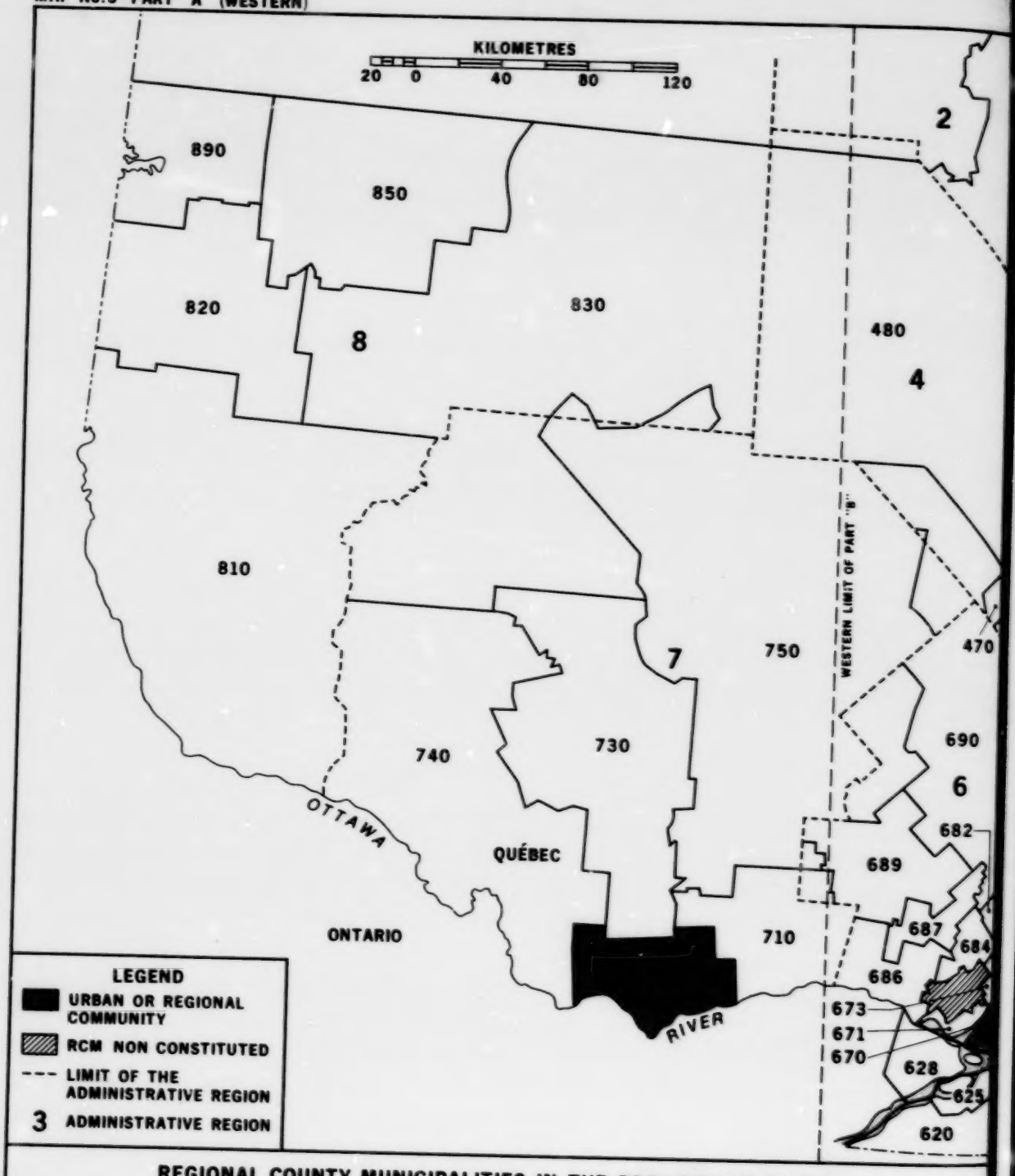



FIGURE 22
JURISDICTION OF REGIONAL COUNTY MUNICIPALITY

| | IN RESPECT TO A SPECIAL ACT OR SPECIAL ACT | IN RESPECT TO THE LAND USE PLANNING AND DEVELOPMENT ACT | GENERAL ADMINISTRATION | |
|---|---|---|---|---|
| NATURE OF JURISDICTION | - COMPULSORY:<br>. Real estate assessment in rural municipalities<br>. Sale of immoveables because of non-payments of taxes<br>. Registration offices<br>. Roads, bridges, water courses<br>. Regulation and administration of non-organized territories<br>- OPTIONAL:<br>. Management of a waste management system<br>. Dispatch of notices and tax bills, tax collection<br>. Collection of duties on transfers of immoveables<br>. Establishment of retirement funds<br>. Others | - COMPULSORY:<br>. Preparation and adoption of development plan<br>. Revision of development plan<br>- OPTIONAL:<br>. Adoption of interim control regulation<br>. Amendments to the development plan<br>. Jurisdiction over cities and towns of the R.C.M.:<br>- real estates assessment<br>- collection of duties on<br>- transfers of immoveables<br>- operation of a waste management system | NOT LINKED to land planning i.e. hiring of assessment agent | LINKED to land planning i.e. planning offices<br>. Personnel management<br>. Management of offices<br>. Financial management<br>. Secretarial services |
| FINANCIAL CONTRIBUTION<br><br>PARTICIPATION IN VOTING AND DELIBERATIONS | Only municipalities under the Municipal Code. | All member municipalities. | All municipalities subject to the Management Code and Cities and Towns Act that desire it.<br><br>Municipalities under R.C.M. and Cities and Towns that have chosen to contribute financially. | All municipalities in R.C.M. (Financial assistance programme).<br><br>All municipalities in the R.C.M. |

Source: Government of Québec

MAP No.5 - PART "A" (WESTERN)

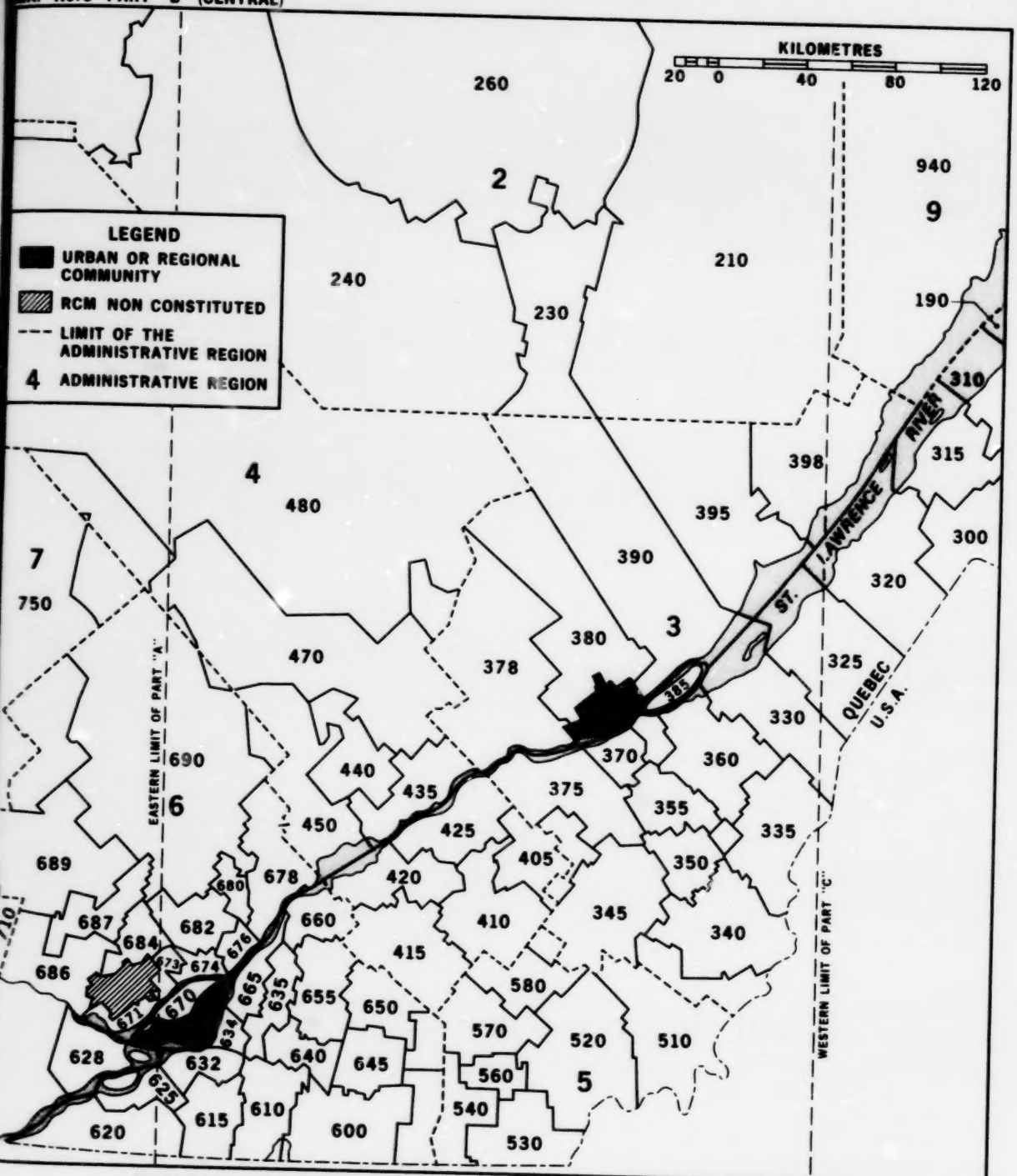



## REGIONAL COUNTY MUNICIPALITIES IN THE PROVINCE OF QUEBEC

470 MÉKINAC
480 LE HAUT-SAINT-MAURICE
620 LE HAUT-SAINT-LAURENT
625 BEAUHARNOIS-SALABERRY
628 VAUDREUIL-SOULANGES
670 LAVAL
671 DEUX-MONTAGNES
682 MONTCALM
684 LA RIVIÈRE-DU-NORD
686 ARGENTEUIL
687 LES PAYS-D'EN-HAUT
689 LES LAURENTIDES
690 MATAWINIE
710 PAPINEAU
730 LA VALLÉE-DE-LA-GATINEAU
740 PONTIAC
750 ANTOINE-LABELLE
810 TEMISCAMINGUE
820 ROUYN-NORANDA
830 VALLÉE-DE-L'OR
850 ABITIBI
890 ABITIBI-OUEST

SOURCE: GOVERNMENT OF QUEBEC
NOVEMBER 30, 1982

MAP No.5 - PART "B" (CENTRAL)

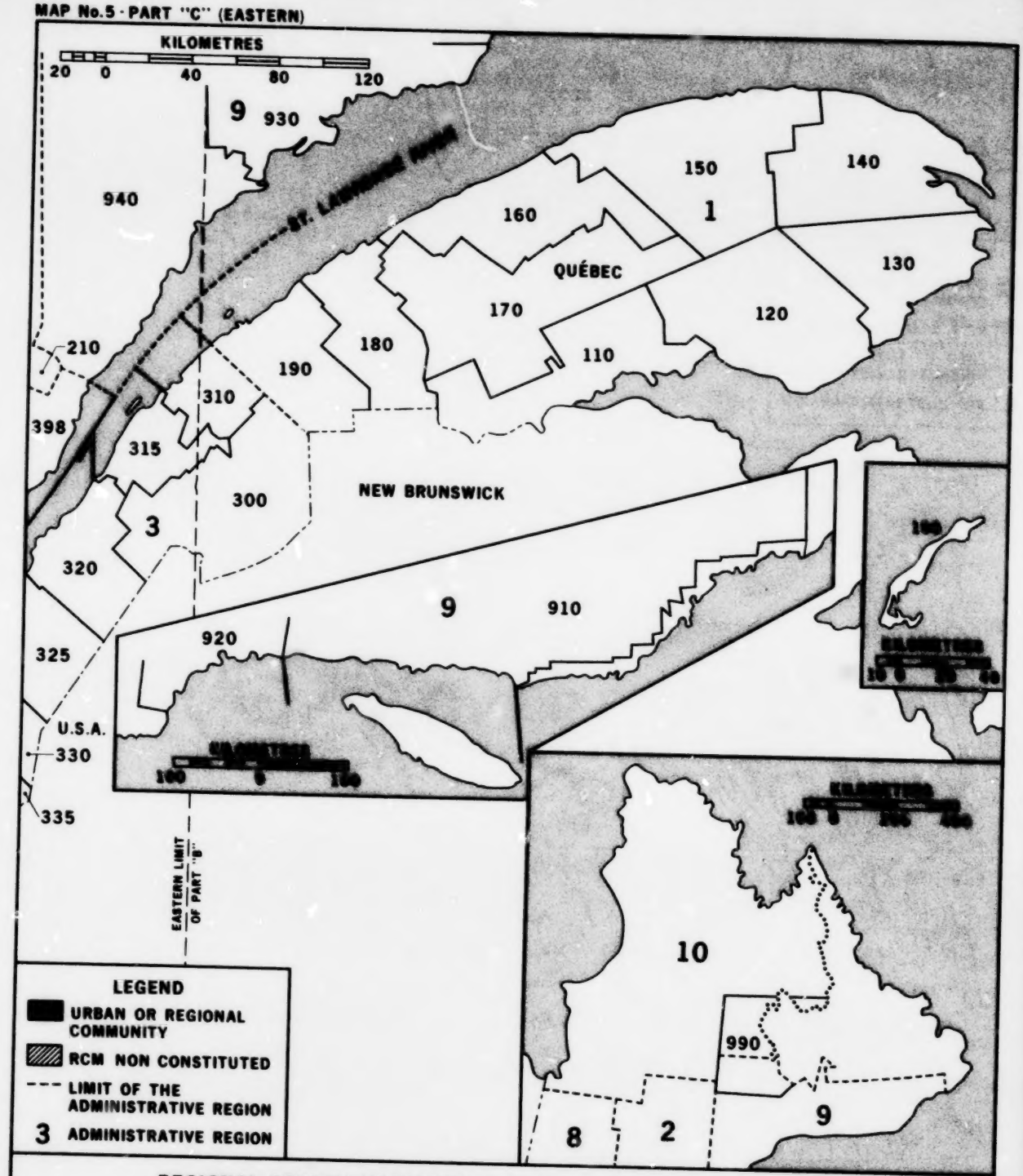



## REGIONAL COUNTY MUNICIPALITIES IN THE PROVINCE OF QUEBEC

210 LE FJORD-DU-SAGUENAY
230 LAC-SAINT-JEAN-EST
240 LE DOMAINE-DU-ROY
260 MARIA-CHAPDELAINE
300 TÉMISCOUATA
310 LES BASQUES
315 RIVIÈRE-DU-LOUP
320 KAMOURASKA
325 L'ISLET
330 MONTMAGNY
335 LES ETCHEMINS
340 BEAUCE-SARTIGAN
345 L'AMIANTE
350 ROBERT-CLICHE
355 LA NOUVELLE-BEAUCE
360 BELLECHASSE
365 DESJARDINS
370 LES CHUTES-DE-LA-CHAUDIÈRE
375 LOTBINIÈRE
378 PORTNEUF
380 LA JACQUES-CARTIER
385 L'ÎLE-D'ORLÉANS
390 LA CÔTE-DE-BEAUPRÉ
395 CHARLEVOIX
398 CHARLEVOIX-EST
405 L'ÉRABLE
410 ARTHABASKA
415 DRUMMOND
420 NICOLET-YAMASKA
425 BÉCANCOUR
435 FRANCHEVILLE
440 LE CENTRE-DE-LA-MAURICIE
450 MASKINONGÉ
470 MÉKINAC
480 LE HAUT-SAINT-MAURICE
510 LE GRANIT
520 LE HAUT-SAINT-FRANÇOIS
530 COATICOOK
540 MEMPHRÉMAGOG
560 SHERBROOKE
570 LE VAL-SAINT-FRANÇOIS
580 L'OR-BLANC
600 BROME-MISSISQUOI
610 LE HAUT-RICHELIEU
615 LES JARDINS-DE-NAPIERVILLE
620 LE HAUT-SAINT-LAURENT
625 BEAUHARNOIS-SALABERRY
628 VAUDREUIL-SOULANGES
632 ROUSSILLON
634 CHAMPLAIN
635 LA VALLÉE-DU-RICHELIEU
640 ROUVILLE
645 LA HAUTE-YAMASKA
650 ACTON
655 LES MASKOUTAINS
660 LE BAS-RICHELIEU
665 LAJEMMERAIS
670 LAVAL
671 DEUX-MONTAGNES
673 THÉRÈSE-DE-BLAINVILLE
674 LES MOULINS
676 L'ASSOMPTION
678 D'AUTRAY
680 JOLIETTE
682 MONTCALM
684 LA RIVIÈRE-DU-NORD
686 ARGENTEUIL
687 LES PAYS-D'EN-HAUT
689 LES LAURENTIDES
690 MATAWINIE
710 PAPINEAU
750 ANTOINE-LABELLE

SOURCE: GOVERNMENT OF QUEBEC
NOVEMBER 30, 1982

MAP No.5 - PART "C" (EASTERN)




## REGIONAL COUNTY MUNICIPALITIES IN THE PROVINCE OF QUEBEC

| | | | |
|---|---|---|---|
| 100 LES ILES-DE-LA-MADELEINE | 160 MATANE | 310 LES BASQUES | 398 CHARLEVOIX-EST |
| 110 AVIGNON | 170 LA MATAPÉDIA | 315 RIVIÈRE-DU-LOUP | 910 MINGANIE |
| 120 BONAVENTURE | 180 LA MITIS | 320 KAMOURASKA | 920 SEPT RIVIÈRES |
| 130 PABOK | 190 RIMOUSKI-NEIGETTE | 325 L'ISLET | 930 MANICOUAGAN |
| 140 LA CÔTE-DE-GASPÉ | 210 LE FJORD-DU-SAGUENAY | 330 MONTMAGNY | 940 LA HAUTE-CÔTE-NORD |
| 150 DENIS-RIVERIN | 300 TÉMISCOUATA | 335 LES ETCHEMINS | 990 CANIAPISCAU |

SOURCE: GOVERNMENT OF QUEBEC
NOVEMBER 30, 1982

municipal counties that existed before. An RCM council is composed of the mayors of all the municipalities whose territory forms part of the RCM. It may also include other representatives from the municipal councils, depending on the number of representatives and the form of representation in the letters patent of each RCM.

Some parts of Quebec are excluded from the RCMs, since they are governed by special acts (the three urban communities, for example). The powers of the Montreal and Quebec municipalities are contained in their respective charters, so the Act Respecting Land Use Planning and Development does not apply to these two cities. The City of Laval is, for purposes of the same Act, a regional county municipality and section 264 of Bill 125 contains special provisions applicable to this city.

In the case of municipalities that come under the Act Respecting the Development Site/Neighbourhood of the New International Airport (1970, c. 48) and municipalities in the Haut-Saguenay that come under the Act Respecting Certain Municipalities of the Outaouais and Haut-Saguenay (1974, c. 88), the letters patent for these municipalities or a grouping of them may make special provisions for the preparation, adoption, and implementation of a development plan, a planning program, or zoning, subdivision, or building by-laws (ALUPD, section 265). The Act Respecting Land Use Planning and Development also does not apply to land north of the 55th parallel, to land described in the appendix to the James Bay Region Development Act (R.S.Q., c. D-8), nor to Indian reserves.

## II LAND DEVELOPMENT AGENCIES AND THEIR INSTRUMENTS

### The RCM and the Development Plan

The development plan is a statement of the general aims of land development policy for the territory of the RCM. It must include the development objectives, general policies on land use, delimitation of the urbanization perimeters, zones with special restrictions, special interest zones, and identification and location of intermunicipal public services and infrastructures. This plan should be accompanied by a document indicating the estimated cost of the public services and infrastructures proposed in the plan.

A preliminary development proposal is prepared by the RCM and sent to the municipalities, neighbouring RCMs, and the Commission nationale de l'aménagement. An abstract of the preliminary proposal is distributed to each civic address in the territory of the regional county municipality. The RCM receives the opinions of the municipalities in its territory on the preliminary proposal and adopts a development proposal.

A copy of the development proposal is sent to the Minister, each municipality in the RCM, and neighbouring RCMs. The government again sends a list of the public service and development projects that it intends to undertake in the RCM (see Figures 23 and 24) and submits its objection, if any, to the adopted development proposal.

The RCM revises the development proposal and prepares the final version of its plan, which is submitted for a second consultation (see Figure 25). The development plan is finally adopted by a resolution of the regional county municipal council. Once the development plan is adopted, the municipalities in the RCM must adopt a planning program with zoning, subdivision, and building by-laws that are consistent with the plan's objectives. If a planning program and by-laws already exist, the municipalities must make them conform to the plan's objectives.

During preparation of the development plan, the Act provides interim control measures that prohibit virtually all new construction and land use. An RCM may, however, substitute a more flexible interim control by-law instead of an almost total ban on development. The interim controls are in effect until the permanent by-laws (zoning, subdivision, and building) are adopted.

Amendment of the plan is provided for in the Act, with a similar procedure to that followed for its adoption. The plan does not necessarily have to be amended, but the regional county municipal council must review the development plan at least once every five years.

### Local Municipalities

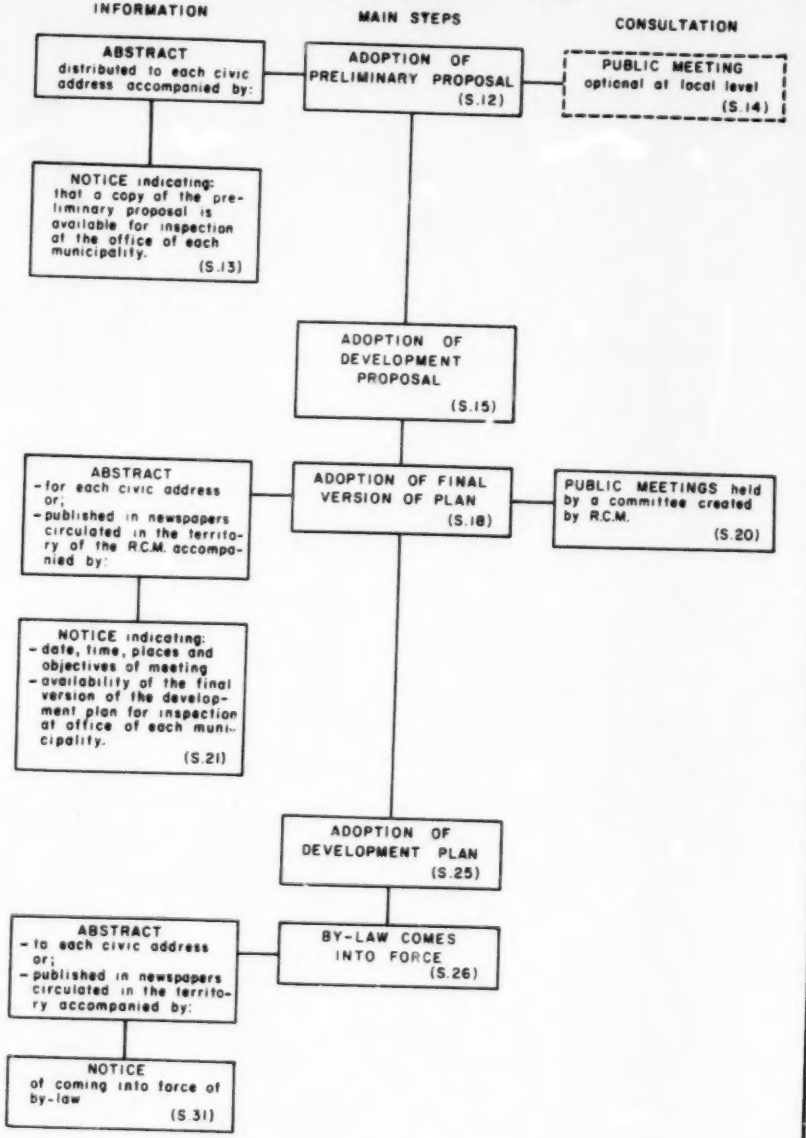
Local municipalities are responsible for municipal land development. The Act Respecting Land Use Planning and Development specifies the range of municipal responsibilities regarding planning by-laws and the municipal plan. A planning program must include a description of the aims of the municipal land-development policy as well as the general policies on land uses and land-occupation densities. A planning program may also include the zones where renovations are planned, the nature and location of public services and infrastructures, the cost of carrying out elements in the plan, the planned transportation networks, and so forth. Once a planning program is prepared, it is adopted by resolution and comes into force. The interim control measures also apply as soon as a resolution to prepare a planning program is adopted.

In order to put the terms of a planning program into force, planning by-laws consistent with the development plan must be prepared by the municipalities. These by-laws cover zoning, building, and subdivision (Sections 113-115). The municipalities can prepare these by-laws

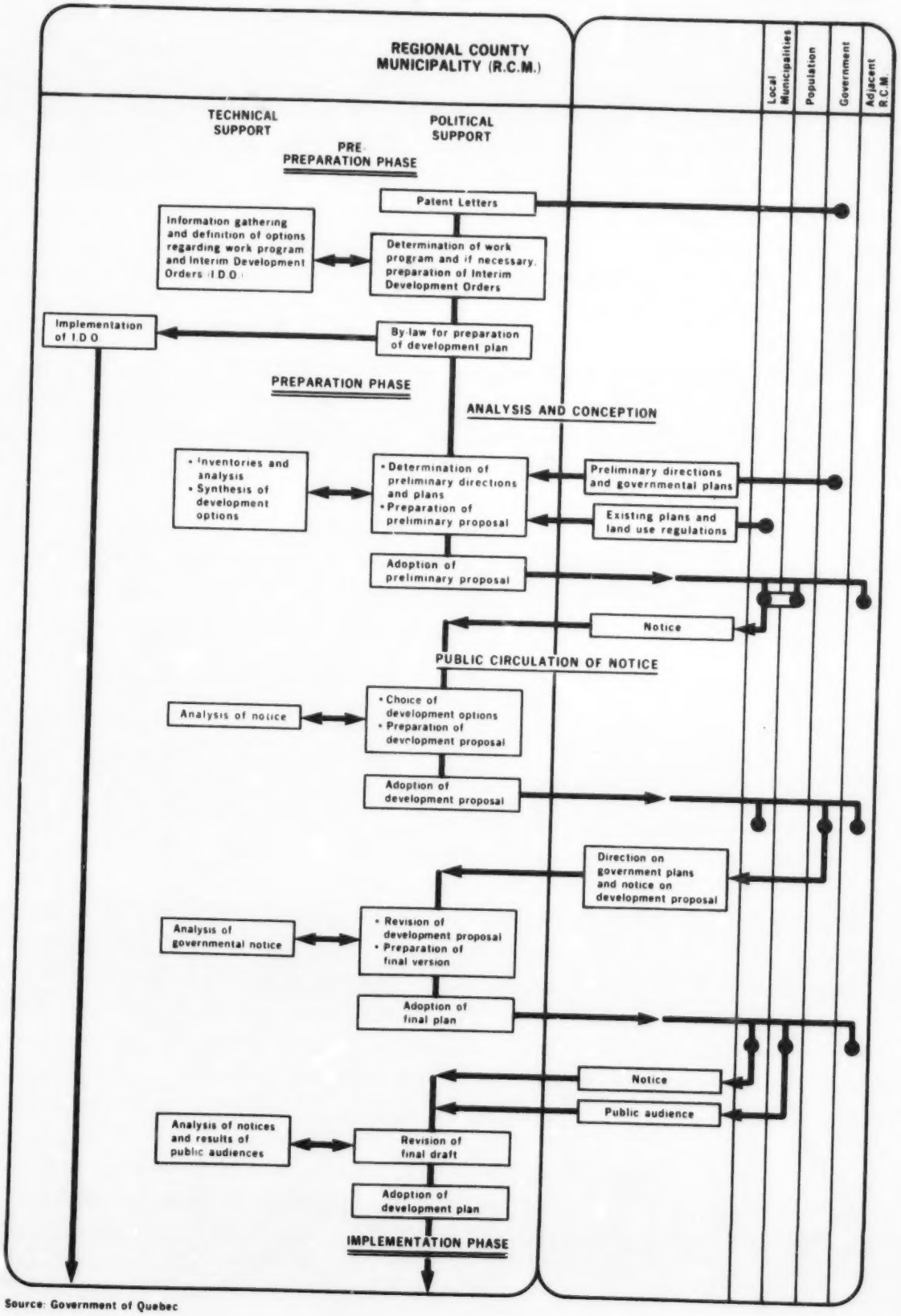
FIGURE 23
CONTENT OF A REGIONAL DEVELOPMENT PLAN

| | COMPULSORY CONTENT | OPTIONAL CONTENT |
|---|---|---|
| PRINCIPLES, GOALS AND DEVELOPMENT OBJECTIVES | GENERAL AIMS of land development (s.s.) | |
| VOCATION FOR VARIOUS PARTS OF THE TERRITORY | GENERAL POLICIES for the whole territory of the R.C.M.<br><br>Delimitation of the URBANIZATION PERIMETERS. | APPROXIMATE DENSITY of occupation.<br><br>LAND USES within the urbanization perimeters that present an interest to the R.C.M. |
| CONSTRAINTS OR PARTICULAR INTERESTS | identification of ZONES WHERE LAND OCCUPATION IS SUBJECT TO SPECIAL RESTRICTIONS FOR REASONS OF PUBLIC SAFETY<br><br>identification of territories that are of HISTORICAL, CULTURAL, AESTHETIC, OR ECOLOGICAL INTEREST to the R.C.M. | JOINT DEVELOPMENT PROPOSAL emanating from a group of joint municipalities.<br><br>Description of those parts of the territory of the R.C.M. that are exempt from staking out within the meaning of the Mining Act. |
| WORKS AND INFRASTRUCTURES | identification and approximate location and, where applicable, the schedule for the setting up of the PUBLIC SERVICES AND INFRASTRUCTURES which the R.C.M. considers to be INTERMUNICIPAL IN NATURE.<br><br>identification and approximate location of the PUBLIC SERVICE AND INFRASTRUCTURE TO BE SET UP BY THE GOVERNMENT, the government departments and agencies and by public bodies and school corporations.<br><br>identification and approximate location of MAJOR ELECTRICITY, GAS, TELECOMMUNICATIONS AND CABLE DELIVERY NETWORKS. | approximate network and type of MAIN TRAFFIC ROADS. |
| ADDITIONAL DOCUMENT RELATING TO CERTAIN CONTROL MECHANISM | MINIMUM STANDARDS to be respected by municipal by-laws. These must apply to zones subject to special restrictions for reasons of special safety. (s. 5) | For the whole or part of the territory, a municipal council may adopt a by-law prescribing CERTAIN CONDITIONS FOR GRANTING BUILDING PERMITS<br><br>GENERAL STANDARDS must take into account existing municipal by-laws. |
| DOCUMENT RELATIVE TO COSTS OF DEVELOPMENT PROPOSALS | a document indicating the ESTIMATED COST OF THE VARIOUS INTERMUNICIPAL PUBLIC SERVICES AND INFRASTRUCTURES. (s.7) | |
| DOCUMENT RELATIVE TO CONSULTATION | a document indicating MODES OF CONSULTATION AND CONCLUSION DRAWN specified by persons and bodies consulted for their agreement. (s.7) | |

Figure 25
PUBLIC PARTICIPATION IN THE PREPARATION OF THE DEVELOPMENT PLAN


INFORMATION
MAIN STEPS
CONSULTATION
ABSTRACT
distributed to each civic address accompanied by:
ADOPTION OF PRELIMINARY PROPOSAL (S.12)
PUBLIC MEETING
optional at local level
(S.14)
NOTICE indicating:
that a copy of the preliminary proposal is available for inspection at the office of each municipality.
(S.13)
ADOPTION OF DEVELOPMENT PROPOSAL
(S.15)
ABSTRACT
- for each civic address or;
- published in newspapers circulated in the territory of the R.C.M. accompanied by:
ADOPTION OF FINAL VERSION OF PLAN
(S.18)
PUBLIC MEETINGS held by a committee created by R.C.M.
(S.20)
NOTICE indicating:
- date, time, places and objectives of meeting
- availability of the final version of the development plan for inspection at office of each municipality.
(S.21)
ADOPTION OF DEVELOPMENT PLAN
(S.25)
ABSTRACT
- to each civic address or;
- published in newspapers circulated in the territory accompanied by:
BY-LAW COMES INTO FORCE
(S.26)
NOTICE
of coming into force of by-law
(S.31)

## FIGURE 24
## PLANNING PROCESS IN QUEBEC


REGIONAL COUNTY MUNICIPALITY (R.C.M.)
Local Municipalities
Population
Government
Adjacent R.C.M.
TECHNICAL SUPPORT
POLITICAL SUPPORT
PRE-PREPARATION PHASE
Patent Letters
Information gathering and definition of options regarding work program and interim Development Orders (I.D.O.)
Determination of work program and if necessary, preparation of Interim Development Orders
Implementation of I.D.O.
By-law for preparation of development plan
PREPARATION PHASE
ANALYSIS AND CONCEPTION
• Inventories and analysis
• Synthesis of development options
• Determination of preliminary directions and plans
• Preparation of preliminary proposal
Preliminary directions and governmental plans
Existing plans and land use regulations
Adoption of preliminary proposal
Notice
PUBLIC CIRCULATION OF NOTICE
Analysis of notice
• Choice of development options
• Preparation of development proposal
Adoption of development proposal
Direction on government plans and notice on development proposal
Analysis of governmental notice
• Revision of development proposal
• Preparation of final version
Adoption of final plan
Notice
Public audience
Analysis of notices and results of public audiences
Revision of final draft
Adoption of development plan
IMPLEMENTATION PHASE

Source: Government of Quebec

before a development plan comes into force, but by-laws may have to be revised later if they are not consistent with the plan.

A subdivision by-law is adopted for the entire territory by the municipal council. For each zoning area, this by-law can specify the area and dimensions of lots by category of use and identify public and private thoroughfares and their layout. The by-law can also prescribe the minimum area of lots. Subdivision by-laws may require that all landowners submit a cadastral operation plan to the designated representative of the municipality. The council may also require that a landowner cede to the municipality an area not exceeding ten per cent of the land included in the plan for playgrounds and parks. A zoning by-law must also include classification of buildings and uses. It divides the territory into several zones and may specify the authorized and prohibited land uses and land-occupation densities of each zone.

The public also has the opportunity to take part in the the preparation of planning policies and by-laws. Everyone registered on the voters' lists of the regional municipalities receives an abstract of a preliminary development proposal and is invited to attend public meetings where opinions on the proposal can be put forth. While preparation of a preliminary planning proposal and its approval at a public meeting are optional, consultation is required before planning policies and by-laws are adopted. The public must also be consulted when a by-law is amended and can oppose the proposed amendment or even require that a referendum be held on it (see Figures 26 and 27).

The council of a municipality can also form a Planning Advisory Committee which has the power to study and make recommendations regarding planning, zoning, subdivision, and building. The Committee consists of at least one council member and residents of the municipality.

In addition to the powers related to by-laws and planning set out in the Act Respecting Land Use Planning and Development, municipalities have certain powers to intervene in development under either the Cities and Towns Act or the Municipal Code, depending on the municipality's status. These powers include:

- acquisition of movables or real estate for public use;
- public works (water supply and treatment, roads, public networks);
- industrial promotion;
- impostion of a 50 per cent surtax on vacant land, and on land serviced by a public water and sewer network;
- imposition of a public reserve on any private land with a view to possible acquisition for public use; this reserve is renewable for an initial period of

Figure 26

PUBLIC PARTICIPATION IN PLANNING PROGRAMME
ADOPTION PROCEDURE

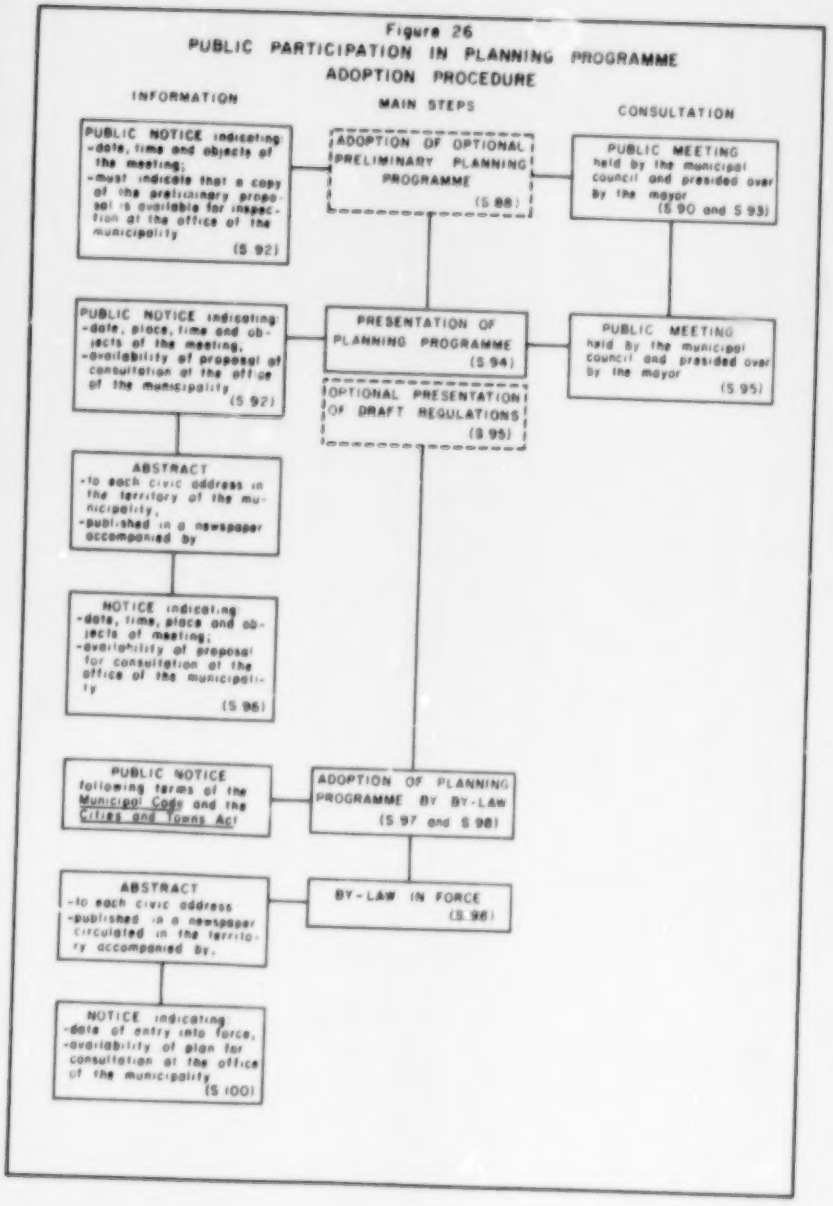
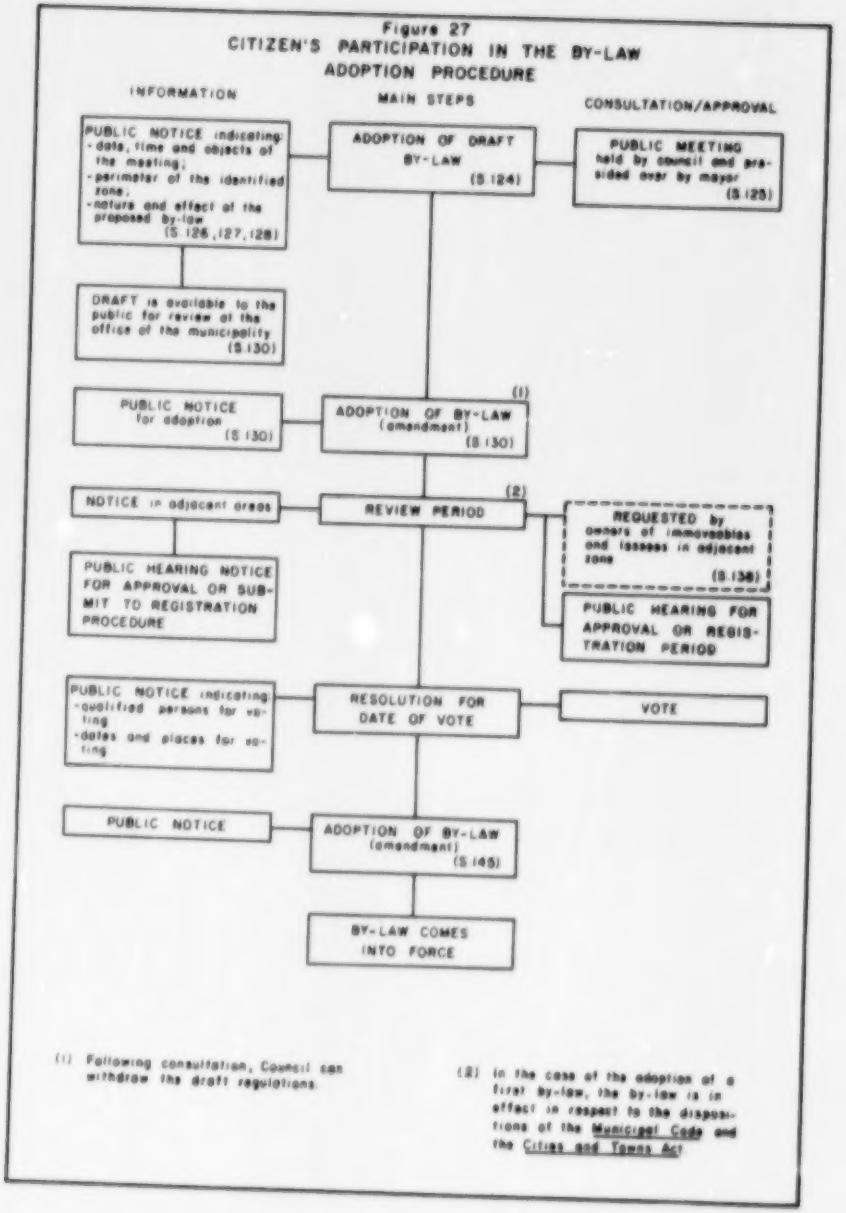

INFORMATION
MAIN STEPS
CONSULTATION
PUBLIC NOTICE indicating:
-date, time and objects of the meeting;
-must indicate that a copy of the preliminary proposal is available for inspection at the office of the municipality
(S 92)
ADOPTION OF OPTIONAL PRELIMINARY PLANNING PROGRAMME
(S 88)
PUBLIC MEETING held by the municipal council and presided over by the mayor
(S 90 and S 93)
PUBLIC NOTICE indicating:
-date, place, time and objects of the meeting,
-availability of proposal of consultation at the office of the municipality
(S 92)
PRESENTATION OF PLANNING PROGRAMME
(S 94)
PUBLIC MEETING held by the municipal council and presided over by the mayor
(S 95)
OPTIONAL PRESENTATION OF DRAFT REGULATIONS
(S 95)
ABSTRACT
-to each civic address in the territory of the municipality,
-published in a newspaper accompanied by
NOTICE indicating
-date, time, place and objects of meeting;
-availability of proposal for consultation at the office of the municipality
(S 96)
PUBLIC NOTICE following terms of the Municipal Code and the Cities and Towns Act
ADOPTION OF PLANNING PROGRAMME BY BY-LAW
(S 97 and S 98)
ABSTRACT
-to each civic address
-published in a newspaper circulated in the territory accompanied by,
BY-LAW IN FORCE
(S 98)
NOTICE indicating
-date of entry into force,
-availability of plan for consultation at the office of the municipality
(S 100)

Figure 27

CITIZEN'S PARTICIPATION IN THE BY-LAW
ADOPTION PROCEDURE


INFORMATION
MAIN STEPS
CONSULTATION/APPROVAL
PUBLIC NOTICE indicating:
- date, time and objects of the meeting;
- perimeter of the identified zone;
- nature and effect of the proposed by-law
(S 126, 127, 128)
ADOPTION OF DRAFT BY-LAW
(S 124)
PUBLIC MEETING held by council and presided over by mayor
(S 125)
DRAFT is available to the public for review at the office of the municipality
(S 130)
PUBLIC NOTICE for adoption
(S 130)
(1)
ADOPTION OF BY-LAW (amendment)
(S 130)
NOTICE in adjacent areas
(2)
REVIEW PERIOD
REQUESTED by owners of immovables and lessees in adjacent zone
(S 136)
PUBLIC HEARING NOTICE FOR APPROVAL OR SUBMIT TO REGISTRATION PROCEDURE
PUBLIC HEARING FOR APPROVAL OR REGISTRATION PERIOD
PUBLIC NOTICE indicating
-qualified persons for voting
-dates and places for voting
RESOLUTION FOR DATE OF VOTE
VOTE
PUBLIC NOTICE
ADOPTION OF BY-LAW (amendment)
(S 145)
BY-LAW COMES INTO FORCE

(1) Following consultation, Council can withdraw the draft regulations.

(2) In the case of the adoption of a first by-law, the by-law is in effect in respect to the dispositions of the Municipal Code and the Cities and Towns Act

two years, but cannot exceed ten years and for its duration, all construction, improvements, additions to the property in question are prohibited;

- control of demolitions;

- delegated powers concerning housing for purposes of renovations or construction of low-rental housing under the Act Respecting the Société d'habitation du Québec L.R.Q. c. 5-8.

### Provincial Government

The provincial government and government departments and agencies are bound by the interim control by-law and the development plan. Two ministers have certain responsibilities in the preparation of plans under the Act Respecting Land Use Planning and Development. The Minister of Municipal Affairs is responsible for providing documentation and technical assistance in preparing a plan as set out in the Act. The Minister of State for Planning assumes the co-ordination of the government departments and agencies in presenting the government's development objectives, which must be established during preparation of the development plan. The government may also ask an RCM to amend its development plan.

### The Commission nationale de l'aménagement

The Commission nationale de l'aménagement is composed of five members including a chairman and a vice-chairman, appointed by the government for not more than five years. The Commission determines: whether a planning program or a zoning, subdivision, or building by-law complies with the objectives of a regional county municipality's development plan and with the provision of the complementary document; whether a zoning, subdivision, or building by-law complies with a municipality's planning programme; whether a government intervention complies with the objectives of a development plan or the provisions of an interim control by-law.

The Commission also gives its opinion on whether a proposed amendment to a development plan affects its objectives or the provisions of the complementary document. The Commission is also the registrar and keeper of the by-laws, resolutions, orders, decrees, notices, and opinions provided for in the Act.

## Other Municipal Acts

The Act Respecting Municipal Taxation R.S.Q. c. F-2.1 gives jurisdiction over property taxes exclusively to the municipalities. The Act also provides for, among other things, the standardization of property assessments for all municipalities and the payment of taxes on property belonging to the Government of Quebec.

The Cities and Towns Act and the Municipal Code allow municipalities to enter into agreements with a neighbouring municipality or a regional county municipality. These agreements may provide for the sharing of such services or buildings as purification plants or those of an inspector. The municipalities that want to form an association may also set up an intermunicipal administration to manage joint services.

The purpose of the Act to Preserve Agricultural Land R.S.Q. 1977 c. P-41.1 is to prevent the loss of good arable land in Quebec. Under this Act, the Government of Quebec identified the arable lands and designated certain protected agricultural zones. The Act prohibits in these zones all activity that is incompatible with agriculture and controls subdivision and parcelling in order to preserve existing productions units and help maintain the viability of farming operations.

The Environmental Quality Act R.S.Q. 1977 c. Q-2, administered by the Department of the Environment, also affects planning. The Department's mandate is to protect ecological resources by providing pollution standards, policies regarding development of shorelines and waterways, and impact studies of development projects, as well as by establishing ecological reserves. All environmental conservation plans and programs will eventually be integrated into the development plans prepared by the RCMs. Under Bill 125, conservation plans must identify landslide and flood zones and set out subdivision and building by-laws for these zones.

The Act to Promote the Regrouping of Municipalities R.S.Q. c. R-19 establishes the procedure for the regrouping of municipalities. It prescribes, in particular, the steps to be taken in amalgamating and cost sharing, the provisions for opposing amalgamation, the studies and surveys necessary to justify an amalgamation, and the resulting conditions. On recommendation from the Municipal Commission and after a public inquiry, the Minister of Municipal Affairs must order a consultation with landowners and lessees on the issue of the advisability of amalgamating their municipalities.

The Cultural Property Act R.S.Q. 1977 B-4 allows the government and municipality to freeze development in a specified area within the province in order to protect buildings or other structures that are deemed to have an historical or heritage value. Zoning, subdivision, or occupancy in such areas, or designated structures, can be controlled by the government and municipality through this Act.

Superior Court

The Superior Court ensures that a development plan is followed. When presented with a petition, the Court orders the ceasing of actions that are incompatible with the planning by-laws in effect, or are contrary to Chapter VI or Title I which deals with government interventions. The Superior Court can also order work that is required to make land use or buildings comply with the law and by-laws and, if no other solutions are feasible, the demolition of buildings or restoration of land.

## I LAND-USE CONCERNS AND TRENDS

There are a number of concerns related to planning of non-public lands in Saskatchewan. The following issues have frequently been encountered in some of the agglomerated areas of the province:

- the lack of controls over fringe lands around urban settlements results in conflicting land uses;
- problems related to the regulative controls on land uses and to administrative delays in the review stage.

These concerns, along with growing interdepartmental conflicts over land development policies, have resulted in a review of the Planning and Development Act (1978), and a general review of all urban legislation in Saskatchewan was initiated in 1975 by the Urban Law Review Committee. The responsibility of the Committee was to identify potential and current problems within Saskatchewan's planning process. The Committee recognized that intermunicipal communication and liaison is important and should be emphasized. Increased relations between municipalities should lead to a more coordinated approach to urban and rural planning through a common decision-making process.

The Committee has also presented the notion of development controls deregulation. Planners at the Saskatchewan Department of Urban Affairs have presented to Cabinet a working paper that suggests changes to the present Planning and Development Act. The policy paper prepared by the Planning Act Review Committee, entitled Options for Change (1982), recommends that intermunicipal land-use concerns and conflicts be dealt with at the regional level; regional planning advisory bodies would articulate regional policies and provide a good basis for establishing provincial land-use policies. Proposed changes also deal with zoning by-laws as they exist at present; these by-laws should be negotiated by the larger communities such as Regina, though with the planning principles remaining the same. The Act will thus address the right of the municipality to use such devices as bonus zoning, zoning contracts, development control zones, etc. Municipalities would be responsible for defining the extent of the powers adopted and the regulations for administering such powers. Once by-laws are approved by the Minister, their powers would have the same effect as those detailed in the Planning and Development Act.

The Land-Use Policy Committee was established at the recommendation of the Environment Advisory Committee which is composed of nine members representing local governments, the Department of Agriculture, the Department of Tourism and Renewable Resources, and

environmental protection groups. The Committee was given the mandate to review development proposals and advise the Cabinet on conflicts that arise in planning and development in the province. In 1978, the Committee set forth a document entitled A Land-Use Policy For Saskatchewan. This report, however, has yet to be officially adopted by the provincial legislature.

The following concerns related to land use were noted by the Committee:

- thinning and clearing of forest lands for agricultural use conflict with the conservation of natural, wildlife, and recreational areas;
- development of the urban-rural fringe is in conflict with agriculture and recreational activities. This trend accentuates the loss of agricultural lands and controls over the use of lands adjacent to zones of different use are apparently insufficient to prevent this trend;
- the development of public services such as pipelines, highways, and transmission lines to serve the provincial community conflicts with other land uses, such as agriculture;
- ecological problems are created and environmental considerations ignored by recreational activities. There are problems related to the development of sewage an water supply systems as well as sanitary landfills that constitute necessary facilities for urban and rural settlements;
- development of riparian and floodplain areas conflicts with agricultural and recreational activities, as well as with wildlife. The growing popularity of cottaging has increased the riparian development demand;
- urban centres, road systems, and industrial developments are in conflict with residential and recreational (e.g., parks) uses;
- there is a need to improve the procedures for public participation in the planning process;
- much prime agricultural land is lost due to urban expansion and annexation;
- drainage of agricultural lands causes downstream flooding of rivers.

The Committee, however, has not been as active as in the past. Its proposals were to be tabled sometime in December, 1982.

## II LAND PLANNING IN SASKATCHEWAN

Saskatchewan has one statute controlling developments and potential conflicts on private land within urban and rural municipalities in both the north and south of the province. This legislation is the Planning and Development Act, R.S.S. 1978, c.P-13. The Act, administered jointly by the Departments of Urban Affairs, Rural Affairs, and Northern Saskatchewan, enables incorporated municipal settlements to prepare development and zoning plans. Municipalities are given specific authority in making decisions and adopting or improving by-laws to manage and plan land within their boundaries.

The Planning and Development Act, along with the Subdivision Regulations which are part of the Planning Act, also provides a framework for the province in dealing with planning concerns that were previously expressed. The Planning and Development Act provides the administrative procedure by which local governments can plan their land use and by which they can prepare a municipal plan, a zoning by-law, and subdivision controls. A municipal development plan may be prepared for the municipal planning area. The municipal planning area consists of legal municipal boundaries only. The municipal council does not share its authority with other local councils and the council controls the development and use of its own land. The plan, once prepared, is adopted by resolution of the municipal council and forwarded to the Minister for final approval (see Figure 28). Upon the Minister's approval, the plan is considered a legal document according to section 48 of the Act and its terms must be respected by all parties, including other provincial departments and agencies.

A zoning by-law specifically defines the uses desired in the planning area and, at the same time, serves to control the development and growth of the planning area (e.g., by controlling population, density, and allowable uses on particular plots of land). Zoning by-laws also identify the certain use and subdivision of land (e.g., type of housing, density, complementary uses). The contents of a zoning by-law can vary according to the nature of the elements that constitute the planning area. For instance, rural municipality zoning by-laws will protect specific resources not covered in the zoning by-laws of an urban municipality.

TABLE 10

SAMPLE ZONES FOUND IN URBAN AND RURAL BY-LAWS[1]

| Rural municipality | Urban municipality |
|---|---|
| (1) agricultural resource protection | (1) residential use |
| (2) resource conservation | (2) commercial use |
| (3) forest development | (3) industrial use |
| (4) summer resort and shoreline development | (4) institutional use |
| (5) protection of urban-rural fringe hamlets | (5) land reserves for specific purposes |

Every zoning by-law prepared by a municipality or municipal planning area must be approved by the Departments of Urban or Rural Affairs. A circular must be published in local newspapers to announce that the zoning by-law is available to the public for study, and if no grievance is filed in this connection, the by-law is forwarded to the Minister for approval.

[1] Saskatchewan Department of Municipal Affairs, Zoning Handbook.

FIGURE 28

APPROVAL PROCEDURES FOR MUNICIPAL DEVELOPMENT PLANS IN SASKATCHEWAN

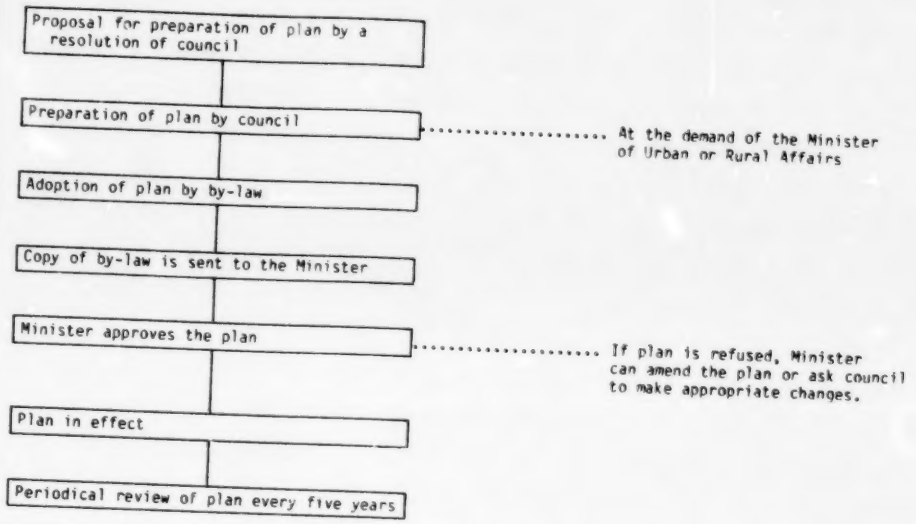
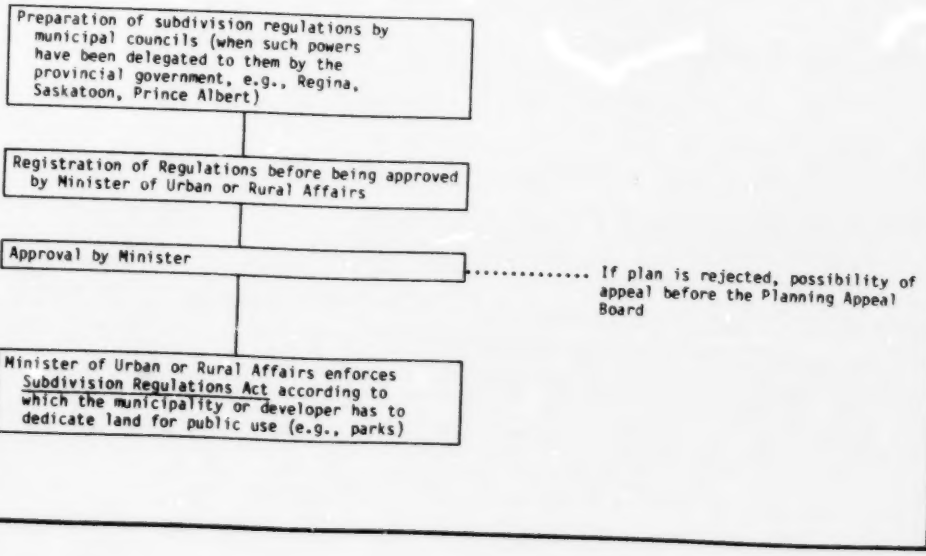

Proposal for preparation of plan by a resolution of council
Preparation of plan by council
At the demand of the Minister of Urban or Rural Affairs
Adoption of plan by by-law
Copy of by-law is sent to the Minister
Minister approves the plan
If plan is refused, Minister can amend the plan or ask council to make appropriate changes.
Plan in effect
Periodical review of plan every five years

FIGURE 29

SUBDIVISION APPROVAL PROCEDURES IN SASKATCHEWAN


Preparation of subdivision regulations by municipal councils (when such powers have been delegated to them by the provincial government, e.g., Regina, Saskatoon, Prince Albert)
Registration of Regulations before being approved by Minister of Urban or Rural Affairs
Approval by Minister
If plan is rejected, possibility of appeal before the Planning Appeal Board
Minister of Urban or Rural Affairs enforces Subdivision Regulations Act according to which the municipality or developer has to dedicate land for public use (e.g., parks)

Subdivision plans are planning tools that enable the province to control the division of land. Subdivision provisions are the responsibility of the Ministers or the designated councils. The Minister makes the Regulations, and the proposed plan of subidivision must comply with the Act and Regulations. Proposals will not be approved unless the land is suitable and the proposal conforms with the plans. Subdivision regulations allow the use of planned unit development and the prescription of development therein. They also allow for a 5 to 10 per cent land dedication for buffer strips of land adjacent to water (to protect against floods, bank erosion) and for areas unsuitable for building. The approval procedure for a subdivision plan is depicted in Figure 29.

### Other Legislation Related to Planning

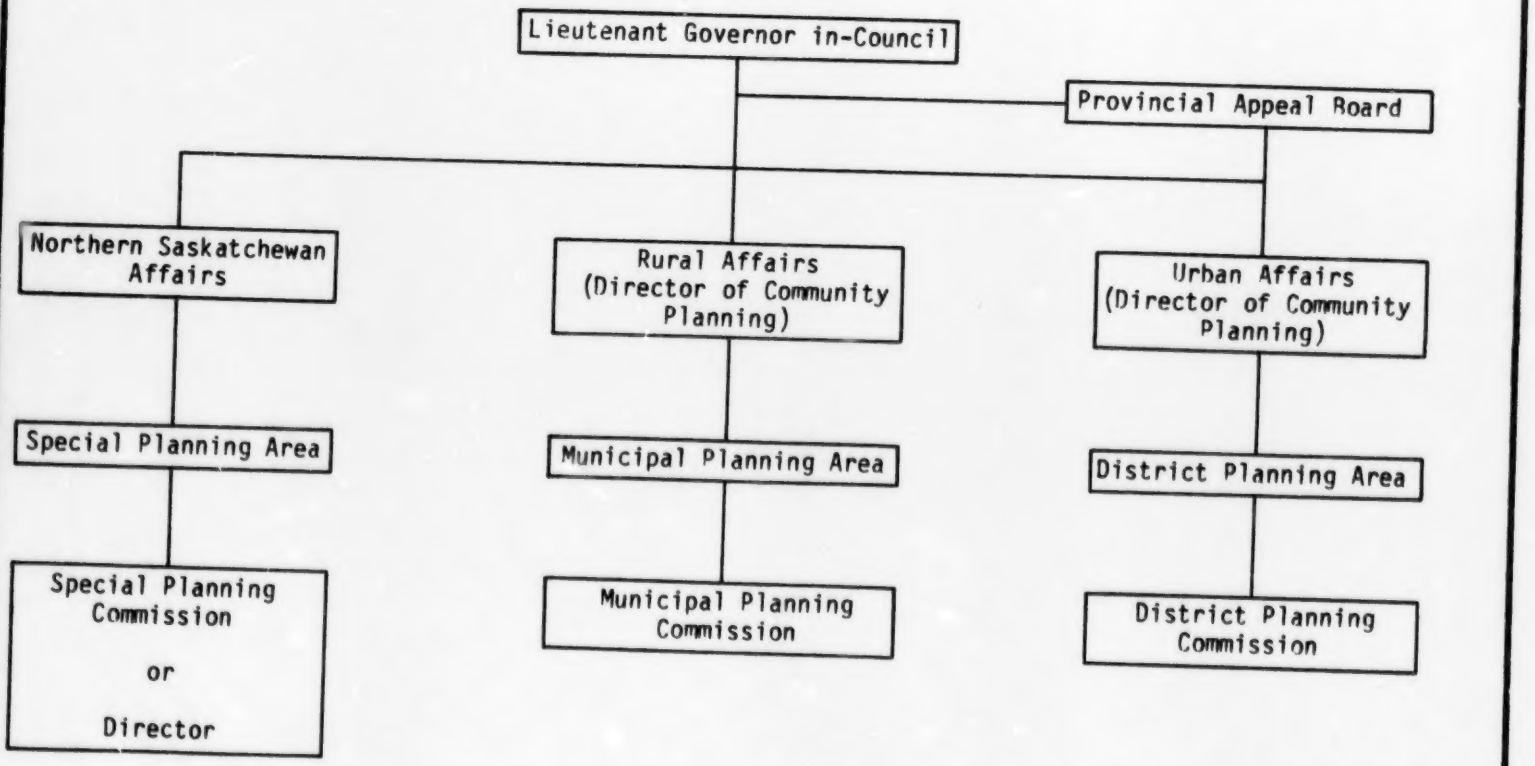
The Urban Municipality Act R.S.S. 1978 U-10 and the Rural Municipality Act R.S.S. 1978 R-26 regulate building construction according to provincial standards. The Land Bank Act s.s. 1978 L-2 also is important in the planning context, since it defines the farm purchasing programs and criteria required for land leasing which control the changing profile of agricultural communities and prevent disturbances to the practice of farming.

### District Planning Experience

The concept of regional planning, similar to that in Ontario, Alberta or British Columbia, does not exist in Saskatchewan. There is, however, an intermediate planning level that makes it possible for two municipalities or more to join and form a planning district. Municipalities usually group by agreement, provided that respective concerns over land resources are homogeneous, e.g. presence of agricultural resources, near the urban fringe, forests, specific resource conservation problems, etc. (Section 85) Currently, eighteen planning districts have been formed and all of them involve urban-rural fringe areas; there are also potential planning districts around lakeshore and resource development areas. The district planning board prepares a district development plan. The procedure for preparation and implementation of the district plan is the same as with the municipal development plan. District planning is encouraged by the province since it provides for better integration and utilization of financial and natural resources. The regional studies program, administered by the Department of Urban Affairs, enables the department to conduct studies on a management strategy for the social, physical, and economic growth of the Regina, Moose Jaw, Prince Albert, and Saskatoon areas. The role of the department consists of developing

FIGURE 30

THE INSTITUTIONAL FRAMEWORK FOR PLANNING IN SASKATCHEWAN



land-use policies for these highly urbanized areas which require special planning provisions.

Under the jurisdiction of the Department of Northern Saskatchewan, three centres function through a special charter that allows them to control development of their land by means of a municipal council in the same manner as in the southern part of the province. These three centres are Uranium City, La Ronge, and Creighton.

### Protection of the Built and Natural Environment

The Planning and Development Act permits municipalities to regulate and control development in certain areas of the province and provides such mechanisms as municipal development plans in which zoning by-laws are integrated. Both urban and rural municipalities may prepare municipal development plans. Zoning controls implement the plan and capital works programs and allow for the revocation of zoning by-laws. Through zoning controls, municipal councils identify areas where natural and agricultural resources are located and specify goals for the development and/or conservation of such resources. Zoning by-laws also control the use of land for certain purposes by regulating buildings and their district location, the classes of land use, floodlands, density noise, trees, and other matters as described in section 61 of the Planning Act. A municipality may also control certain constructions and demolition of buildings in its planning area by using the planned unit development (PUD) concept, by which council specifies the kind of development that may be carried out in a given area of the municipality.

Special planning areas, declared by order of the Ministers of Urban or Rural Affairs or Northern Saskatchewan fall under the planning scope of municipalities (S. 193). The Minister appoints one person nominated by the council of each municipality, located wholly or partly in the special planning area, and these people form a special planning area commission. By declaring special planning areas, the Minister acknowledges that the planning of an area exceeds municipal jurisdiction and declares the scope of planning to be provincial in nature.

Such Ministerial orders are motivated by the following concerns:

(a) recreational, educational, governmental sites with special characteristics;

(b) the protection and conservation of natural resources (e.g. agricultural lands, flood plains, lakes etc.);

(c) wilderness landscapes and natural sites of great beauty;

(d) historic and cultural sites;

(e) natural reservoirs;

(f) new townsites in which certain industries are established.

The Department of Urban Affairs is currently administering a land use planning program where land use changes and development in the Qu'Appelle Valley are being controlled. Six special planning area commissions have prepared a draft land use policy plan to guide development strategy and related controls in the valley. All of their recommendations are forwarded to the Minister of Urban Affairs for his approval.

### Public Participation

The requirement for public notification in the planning process ensures that the public has the opportunity to become involved in decision making. The Planning and Development Act contains provisions for newspaper advertisements and public hearings prior to the adoption of amendments, dealing with municipal development plans, and zoning by-laws.

Some members of the community also have the opportunity to contribute directly to the municipal planning process by being appointed by a municipal council to take part in a municipal planning commission. The commission assists council with respect to all matters pertaining to community planning and the orderly development of a municipality. It can also prepare municipal development plans and zoning by-laws and investigate subdivision proposals. Individuals can also appeal zoning by-laws and decisions refusing proposed subdivision plans.

## III SASKATCHEWAN'S ADMINISTRATIVE PLANNING STRUCTURE

### Provincial Government

The provincial government exercises approval authority over municipal plans and zoning by-laws through the following three departments: the Department of Urban Affairs, the Department of Rural Affairs and the Department of Northern Saskatchewan (see Figure 30). Their respective responsibilities are:

- approval subdivision plans except in the case of municipalities which have received by minister's order the delegated authority to approve subdivision plans (e.g. Regina, Saskatoon, Prince Albert);
- to approve municipal development plans;
- to approve zoning by-laws submitted by the municipalities.

The Ministers of Urban or Rural Affairs are also responsible for special planning areas such as the Qu'Appelle Valley. The establishment of such areas means that concerns about their planning and development exceed municipal interests. However, the ministers can delegate authority to a special planning area commission under Section 194 of the Planning and Development Act.

The Department of Northern Saskatchewan administers the Northern Administration Act, R.S.S. 1978 C.N-5. This Act also allows the Lieutenant Governor-in-Council to make regulations pertaining to land use, such as housing, building construction standards, and prohibition of certain uses. The Lieutenant Governor-in-Council may also declare any portion of a district to be a local development area, and such areas are administered separately from the district. The minister may organize and constitute by order any portion of the district as a northern community area to be administered by a local community authority to whom all planning authority is transferred.

There is also the Provincial Planning Appeals Board which hears and determines appeals in all cases stemming from interpretation of the provisions set forth in the Planning and Development Act.

The members of the Board are appointed by the Lieutenant Governor-in-Council. The authority of the Board is somewhat discretionary; the Board can select the appeals that will be heard and make recommendations on subjects referred to it by the minister, such as subdivision cases and Zoning Appeals Board decisions.

Numerous planning authorities have been delegated to municipalities. A municipal council may, through a municipal planning commission (Sections 14-23) and a technical planning commission, conduct a series of studies on land use and the effects of land-use planning on certain land uses, as well as prepare a municipal development plan, zoning by-laws and subdivisions plans. Moreover, a number of municipal councils can choose to combine their territories into a planning district in cases where their respective resources are sufficiently homogenous (e.g. agriculture, forests, common drainage problem) and where they share common concerns.

To implement specific provisions of the municipal development plan, the municipal council has the authority to purchase and dispose of land as it sees fit and can thus accumulate considerable land reserves in anticipation of residential development, for example. The municipal council exercises this power of expropriation pursuant to the provisions of the Municipal Expropriation Act (S.S. 1973, c.73, s.51).

A municipal council has the means to achieve the objectives set forth in the municipal development plan through the use of zoning by-laws. A municipal council can also establish a Zoning Appeals Board for the purpose of solving zoning disputes under Section 61 of the Planning and Development Act. The Board concerns itself with variation in uses and non-conformity restrictions resulting from certain zoning by-laws. All municipalities can establish a zoning appeal board. However, in municipalities of over 5000 people, the board must be composed of persons other than councillors.

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APPENDIX 1

## RESOURCE DEPARTMENTS

These are the provincial departments/ministries we have contacted in order to obtain information on their respective land planning frameworks.

**Alberta:**

Planning Branch
Department of Municipal Affairs
Jarvis Building
9925 - 107 Street
Edmonton (Alberta)
T5K 2H9
(403) 427-2125

**British Columbia:**

Planning Branch
Ministry of Municipal Affairs
747 Fort Street
Victoria (B.C.)
V8W 3E1
(604) 387-5925

**Manitoba:**

Provincial Planning Branch
Department of Municipal Affairs
405 Broadway Ave.
Winnipeg (Manitoba)
R3C 3L6
(204) 944-3866

Urban Policy Co-ordination Branch
Department of Urban Affairs
509-386 Broadway Avenue
Winnipeg (Manitoba)
R3C 3R6
(204) 944-3866

**New Brunswick:**

Community Planning
Ministry of Municipal Affairs
C.P. 6000
Fredericton (New Brunswick)
E3B 5H1
(506) 453-2171

**Newfoundland:**

Planning Branch
Department of Municipal Affairs
Confederation Building
St-John's (Newfoundland)
A1C 5T
(709) 737-3086

**Nova Scotia:**

Community Planning Division
Department of Municipal Affairs
Maritime Centre, 9th floor
1505 Barrington Street - P.O. Box 216
Halifax (Nova Scotia)
B3J 2M4
(902) 424-4091

APPENDIX 1 (cont'd.)

Ontario:

Community Planning
Ministry of Municipal Affairs
56 Wellesly W.
Queens' Park
Toronto (Ontario)
M7A 2K4
(416) 965-3177

P.E.I.:

Community Planning Services
Department of Community
and Cultural Affairs
Jones Building, 3rd floor
Charlottetown (P.E.I.)
(902) 892-4259

Québec:

Service des études et projets
Ministère des Affaires Municipales
20, avenue Chauveau
Québec (Québec)
G1R 4J3
(418) 643-2080

Saskatchewan:

Community Planning
Saskatchewan Urban Affairs
2151 Scarth Street
Regina (Saskatchewan)
S4P 3V7
(306) 565-2687

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